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ABSTRACT

This report of the National Council on Disability (NCD) presents a compilation of statements given at public hearings on issues identified as critical to the implementation of the Individuals with Disabilities Education Act (IDEA). These four issues are: (1) eligibility and over-representation of racial and ethnic minorities; (2) funding of IDEA; (3) monitoring and enforcement; and (4) discipline. Comments are organized around 21 questions and include input from students, parents, advocates, school administrators, teachers, university personnel, and others. Review of the comments indicates general support for IDEA, but divergent opinions on many issues. Nine NCD recommendations for reauthorization of IDEA include the following: regarding enforcement, the Department of Education should review state regulations and provide technical assistance to insure compliance without unnecessary paperwork; regarding funding, Congress should adopt mandatory funding in keeping with the original commitment from the federal government to fund 40 percent of the per pupil costs of special education; regarding discipline, current discipline requirements should be examined and simplified where possible; and regarding over-representation of minority groups in special education, provision of early intervention and prevention services should be funded through Title I in the early years. Attached are a list of commenters and the mission statement of the NCD. (DB)

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Individuals with Disabilities Education Act Reauthorization: Where Do We Really Stand?

National Council on Disability
July 5, 2002

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Where Do We Really Stand?

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"The Americans with Disabilities Act and the Individuals with Disabilities Education Act are cornerstones of the empowerment culture. They empower all Americans to participate, to produce. ADA and IDEA and other disability rights laws must not be weakened. They must be vigorously implemented."

Justin Dart
National Council on Disability
National Summit on Disability Policy
April 27, 1996
Achieving Independence

Contents

Introduction 1

Summary Statement 3
- Monitoring and Enforcement 3
- Funding 3
- Discipline 4
- Overrepresentation 4

NCD Recommendations for IDEA Reauthorization 5

Part 1: Where Do We Really Stand? Youth Speak Out 9

Part 2: Where Do We Really Stand? From the Public 19
- Issue 1: Monitoring and Enforcement 19
- Issue 2. Funding 67
- Issue 3. Discipline 95
- Issue 4. Eligibility and Overrepresentation of Ethnic, Cultural and Racial Minorities in Special Education 109

General Public Recommendations 31

List of Commenters 131

Appendix
- Mission of the National Council on Disability 141

Introduction

The National Council on Disability (NCD) is an independent federal agency making recommendations to the President and Congress on issues affecting 54 million Americans with disabilities. NCD is composed of 15 members appointed by the President and confirmed by the U.S. Senate. NCD's overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society. NCD makes recommendations to the President, Congress, and federal agency officials concerning ways to better promote equal opportunity for all individuals with disabilities. In addition to our statutory mandates, NCD's mission is to provide a voice in the Federal Government and to Congress for all people with disabilities in the development of policies and delivery of programs that affect their lives.

In keeping with that mission, on February 11, 2002, NCD published a working document on the reauthorization of the Individuals with Disabilities Education Act. The paper, *IDEA Reauthorization: A Working Paper*, identified four areas that NCD determined to be particularly critical to the implementation of IDEA: eligibility and over representation of racial and ethnic minorities; funding of IDEA; monitoring and enforcement; and discipline. NCD poses a number of questions for each of these areas. The selection of these four areas and the accompanying questions were based on the review of eleven years of NCD publications on the implementation of the Act and barriers to full implementation buried within policy and practice relative to each.

We then set out to find answers. In preparing this paper, NCD reviewed public proceedings over the past two years, including hearings held by the White House Commission on Excellence in Special Education, Committees and Subcommittees in the House of Representatives and Senate, and the U.S. Commission on Civil Rights, along with publications from the National Academy of Science, the Harvard Civil Rights Law Project, and the General Accounting Office. NCD invited the public to respond to the questions in a public comment period announced in the *Federal Register* on April 3, 2002. And, finally, we invited the real consumers, youth with disabilities, through the NCD Youth Advisory Council to tell us about their experiences in special education.

Where Do We Really Stand? is a compilation of the public statements—excerpts that are particularly relevant to the NCD issues and provide guidance in answering the questions. It begins with the youth comments, because that is where we should begin in any discussion of special education … what can they tell us about their experiences with IDEA?

A few disclaimers are necessary. Public comments are organized around the 21 questions found in the four critical areas. Thousands of pages of print were reviewed in search of recommendations relevant to the NCD questions. The paper excerpts statements from students, parents, advocates, school administrators, teachers, university personnel, and others. Most of the statements have been shortened; the substance has been honored although words may have been rearranged to more readily fit into the document. The intent was to survey what the public has

been telling the Federal Government about IDEA, about what changes are necessary after twenty-seven years, and about provisions that are "sacred." While many of these statements are scientifically based, this is not to be considered more than a compilation and analysis of excerpts of individual statements expressed in a number of public venues. Some of the contributors' last names have been omitted to protect their anonymity.

Two things are obvious in the survey of the public opinion. First, it is clear from the volumes of work that IDEA has a wide following in this country. Second, there is controversy among the followers—a deep chasm of opinion on a number of issues particularly relevant to the quality of educational outcomes for students with disabilities. From the students, we hear the reality of their lives in special education. In most cases, the comments we received from them are a scathing indictment of the implementation of IDEA.

NCD has attempted to capture the trends found in the material, summarize what we found, and recommend solutions based on a combination of our work since 1991 and statements that particularly resonated with the members of NCD. We hope that others will be able to use this document to do the same. A list of individuals referenced in this document is found in the Appendix. The document is certainly not all-inclusive of public comments made during the past two years, but we believe it is very representative of the messages delivered.

Finally, more public statements are being made every day as the President's Commission Report is being released and Congress is making plans for rapid action on the reauthorization. We will update the web version of this document, to ensure that it truly reflects public opinion. We hope that *Where Do We Really Stand?* will be useful to a broad audience of groups and individuals who are working on behalf of students with disabilities and their families to strengthen the implementation of the IDEA.

Summary Statement

Based on its review of Congressional hearings and briefing records, as well as Presidential Commission transcripts, and IDEA research reports published by various Federal Government entities, NCD identifies a number of common themes.

Monitoring and Enforcement—There is clear agreement that significant weaknesses are present in the current systems of monitoring and enforcement. A large number of comments addressed the need for change to a less bulky, more timely system focused on solid outcomes for students and more classroom time for teachers. It is important to note that there were no calls to eliminate federal monitoring, rather to improve it. Three themes for solutions emerge in public opinion: 1) Professionals say there is too much needless paperwork leaving too little teaching time. This claim is not supported by parents who believe process is important for implementation; 2) The question of responsibility for the paperwork requirements—federal or state bureaucracy—gives rise to the suggestion that clearer and more concise instructions are needed for States to assist them in limiting paperwork to essential information; and 3) More emphasis should be placed on meaningful monitoring activities leading to improvements in student outcomes. These issues frame a lively public debate over how much paperwork, monitoring, and/or enforcement is necessary for implementation of the IDEA and what level should be responsible for them.

The new Departmental initiative for monitoring—Continuous Improvement Monitoring—has been well received. The next "generation" of improvements is the still evolving Focused Monitoring, which is designed to collect data focused on specific identified problems and solutions. Inhibitors in the current system were identified as: insufficient enforcement; too much paperwork; too much bureaucracy; inconsistency in federal follow-through and slow turnaround time; long term patterns of noncompliance; too much procedure/not enough substance at the state and federal level; big sweep—no targets to identify and fix the real problems. All stakeholders, including parents, should be included in the monitoring system. A lingering question about the paperwork requirements begs for an answer: "Is the origin of too much paperwork federal requirements or state regulations?" There was a strong cry for simplicity and consistency across states in data collection and the IEP process, with many recommendations for standardized data collection and IEP formats. The IEP must be a tool for instruction and assessment rather than paper chase, and data must be useful to states for improvement. Systems of accountability must include assessment and unified reporting for all students, including students with disabilities. Alternate assessments and individualized accommodations must be available for students who need them.

Funding—What, if any, changes should be considered in federal special education funding formulas? Integrated funding, which is the utilization of IDEA funds in general education classrooms, has been a highly controversial and divisive issue for years, with advocates for student rights strongly opposing earmarking any IDEA money for use outside of special education. It was clear that administrators strongly favor such changes in IDEA while the parents do not. A myriad of other recommendations also surfaced—weighted or differential payments based on severity of the disability; elimination of funding supporting segregation; examination of

costs vs. expenditures as the funding formula base; creation of federal safety nets for cost overruns; addition of more administrative allowances; coordination of funding with other federal programs with IDEA responsibilities; reduction of state maintenance of effort requirements; creation of a state match; creation of a cap on Part B expenditures and attorneys fees; and elimination of disability categories. Part D appropriations are insufficient to address infrastructure needs. Increases are needed for the discretionary programs, and there is a strong voice for indexing increases in Part D to increases in Part B.

Discipline—While the advocacy community has held fast to the discipline amendments of 1997 as the right and equitable answer to the thorny question of disciplinary treatment of students with disabilities. There appears a strong body of evidence in the public statements that the current system is too confusing. Some teachers and administrator's advocate for a unified system of discipline for all students. Others are adamant that the policy must only be "clarified and simplified." Most seem to believe the core principals of the disciplinary policy are important and recommend holding firm to the protections for students so carefully crafted in 1997. There was a recurring theme recommending equity for students and teachers and strong educational programs for students with discipline problems. Few brought to the table discussions about current implementation of the discipline requirements in the Act. It is not clear if this is because there are few instances of proper implementation, or if other issues were considered more important.

Overrepresentation—Recommended solutions to overrepresentation tended to cluster around a number of themes, the most prevalent being the need for strong early intervention programs for identification and prevention of special education placement. Likewise, interventions in general education, with proper testing, rigorous eligibility criteria, assessments, materials, and high quality instruction. These lead to blended funding streams, which is addressed again in the funding section, although this solution is not universally supported. For successful early intervention and general education prevention the shortage of teaching staff is identified as a major issue and targeted for changes through professional development, parent training and support. Finally, appropriate data collection and manipulation is important, with the issue of disaggregation for race and gender appearing several times. Witnesses identified a number of family centered services as important to overcome overrepresentation: strong prenatal and other health care services, coordinated family services; and, culturally appropriate technical assistance to schools. One individual recommended cultural competencies for state certification requirements and culturally sensitive diagnostics. There was a strong emphasis on the need for training, especially increased training in behavior management; culturally sensitive training for both special and general education teachers; pre-service and in-service training; training in culturally sensitive diagnostics and parent training; and a National Advisory Panel to develop partnerships between universities and the community to strengthen in-service training. Especially important to note is the statement about the importance of strong personnel preparation programs for university trainers due to a serious shortage of special education expertise at the university level. And finally, increased funding is important to secure the recommended services. Quality research. It is similarly important to remove financial incentives for higher numbers of special education placements. The importance of data is a constant theme throughout and it certainly was highlighted here as an important issue.

National Council on Disability Recommendations for Reauthorization of IDEA

This document has revealed many recommended changes to IDEA. Some of the recommendations resonate clearly with NCD, others we believe would threaten the rights of students with disabilities if they were to become law. Based on the review of testimonies and other public statements, along with the other NCD work on IDEA policy and implementation, including our *Back to School Report*, NCD makes recommendations for the reauthorization of the Individuals with Disabilities Education Act. As previously outlined, NCD's focus has been on the four areas of monitoring and enforcement, funding, discipline and overrepresentation. Our recommendations are for improvements in these areas as well.

1. Enforcement—NCD heard and agrees that the focus of special education should be on outcomes. However, we are very worried about the number of times administrators and teachers recommended overhauls that could endanger the very core principles of IDEA: FAPE, least restrictive environment, IEP and due process protections. With so much importance placed on student testing and accountability based on the results of testing, students with challenging disabilities could well be relegated to separate settings due to their inability to perform. It was to protect students with disabilities from this type of discrimination that these principles were included in the Act. It is more important than ever that paperwork and process be in place to ensure that the civil rights of each student with a disability are adhered to. These issues frame a lively public debate over how much paperwork is necessary for implementation of the IDEA and how much of the current barrage of paperwork is "overkill" from state regulations? NCD believes that much of the procedural pressure is created at the state rather than the federal level. To ensure that states are not creating regulations that challenge teaching time, ***NCD recommends that the Act include instructions to the Department of Education to more carefully review state regulations, and provide instructions and technical assistance in instances where the state rules include unnecessary paperwork requirements or regulations to ensure implementation requirements that adhere to the law without creating unnecessary paperwork.***

2. Enforcement—The Department of Education should not be the sole enforcement agency. The Department has long-standing and collaborative relationships with state education administrators. This is an important relationship that is jeopardized when the Department threatens sanctions. Partial solutions were included in the last reauthorization when enforcement authority was also given to DOJ, but only following referral of cases from the Department of Education. This has not worked for there have been no referrals to DOJ since that authority was added to the Act. ***NCD recommends an expansive role for DOJ. Congress should authorize and fund the Department of Justice to independently investigate and litigate IDEA cases, as well as administer a federal system for handling pattern and practice complaints filed by individuals. NCD also recommends adequate funding for the Department of Justice and the Department of Education enforcement, complaint-handling, and technical assistance***

infrastructures, enabling the federal agencies to support improvements in state compliance and ensure better outcomes for children

3. Standards—The lack of national compliance standards is at the root of the enforcement problems. ***NCD recommends that the Departments of Education and Justice be directed to develop national compliance standards, improvement measures, and enforcement sanctions that will be triggered by specific indicators and measures indicating a state's failure to ensure implementation of the law. Stakeholders, including students with disabilities and parents, should be consulted by the Departments for consistency and clarity as they develop and implement a range of enforcement requirements.***

4. Technical Assistance Networks—To further strengthen the monitoring and enforcement activities, NCD recognizes the need for the development of state-level technical assistance networks, self-advocacy and monitoring training for students and parents and other partners, as well as free and low-cost legal services for families. ***To fund these Department of Education-sponsored technical assistance programs activities, we recommend IDEA include a formula that triggers additional funding equal to 10 percent of every IDEA, Part B increase. The Department of Education should ensure that this capacity building occurs across-the-board at state and local school district levels as well, to strengthen all accountability connections.***

5. Accountability—Systems of accountability must include assessment and unified reporting for all students, including students with disabilities. Alternate assessments and individualized accommodations must be available for students who need them. ***NCD recommends the reauthorization of IDEA mandate reporting for all students with disabilities in the state accountability reports and that the IEP be required to address the need for alternate assessments and individualized accommodations. Schools should be carefully monitored on this issue to ensure that students are not being moved to alternative schools to "protect" the school from lowered scores on the school-wide tests.***

6. Funding—NCD joins the voices of concern from individuals with disabilities, their families, and their advocates across the country about inadequate funding for special education. ***NCD recommends Congress adopt mandatory funding in keeping with the original commitment from the Federal Government to fund 40 percent of the per pupil cost of special education. In this regard, NCD also recommends Congress tie full funding of IDEA to full enforcement of IDEA, specifically, the implementation of the recommendations listed above.***

7. Discipline—The discipline amendments of 1997 are the right and equitable answer to the thorny question of disciplinary treatment of students with disabilities. However, there is a strong body of evidence that the current system is too confusing. ***NCD recommends that the current discipline requirements be carefully examined and simplified where possible, without eliminating any protections for students with disabilities. No cessation must remain an absolute requirement in the law.***

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8. Overrepresentation of Diverse Populations in Special Education—NCD echoes the multiple concerns expressed over the past few years about the serious problems caused students from diverse backgrounds who are wrongly placed in special education. We do not agree that using IDEA funds to pay for prevention in general education is the solution. Funding authorized in the Individuals with Disabilities Education Act must remain money set-aside exclusively for students with disabilities who are determined in need of special education services. It must not be blended with general education funds for any purposes. NCD believes there are sufficient funds through Title I and other programs to general support for prevention strategies for "at risk" students in the general education classroom setting. ***NCD strongly supports recommendations that the overrepresentation issue be tackled head on with early intervention and prevention services in the early years and into general education, funded through Title I and other so designated funds. Additionally, faithful adherence to the law for students determined eligible for services would fix these problems, providing FAPE, LRE, supports and all the other promises of the law.***

9. Culturally Appropriate Training Materials—***NCD recommends that the law support the Office of Special Education and Rehabilitative Services in the Department of Education to expand its initiatives to serve non-English speaking groups and/or people with limited English proficiency and create culturally appropriate training materials.***

Part I: Where Do We Really Stand? Youth Speak Out

On May 16, 2002, NCD asked youth about their experience with IDEA. They were asked to respond to several questions. Some did so, others responded with a description of their personal experiences, current or past, with the implementation of IDEA. In some cases, the response is from the parent rather than the youth. While we wanted this section to focus exclusively on first hand student experiences, we chose to include the parental experiences we receive to this request, for their responses also bring home the problems that must be addressed in this reauthorization of the Act.

It is important to note that the questions asked of the students were different than those found in the rest of this document.

1. When you think about your years in school, what comes to mind about special education and related services?

2. If your school was reluctant to provide special education services because of financial concerns, which services were disputed? Did you receive the services that your IEP team said you needed?

3. If the discipline procedures under IDEA need to be clearer, how would you change the way the discipline policy is explained to students and their parents?

4. How important were specific factors such as cultural, ethnic, social or language background in your being placed in special education?

5. How could schools do a better job before students leave high school to help you and other young people with disabilities prepare in areas such as: Employment, Transportation, Housing, Managing my finances, Health care, Independent living, Connecting to resources in my community, and/or Postsecondary (college or vocational) education?

As we go to press with *Where Do We Really Stand?* NCD is still receiving responses to our "Youth" questions. The document will be updated on the NCD Web page to include the additional responses. As with the rest of this document, the comments are edited for brevity purposes only, preserving the presentation style and substance.

Adam, Former Student—Illinois

I have been out of school for 2 years and my years in school were a nightmare for my family and me. I ended up not graduating because in November of my last year in school I was in a bad traffic accident and in the hospital for three months. During that time my school dropped me from the roles because I was "truant" (even though they knew where I was). By the time I could go back to school (I was on life support for two months) my family and I decided I did not have enough time left to get the credits I needed. One of the biggest problems faced was that the school had problems with me having a lot of health problems, which forced me to miss a lot of

school. When I was a senior they insisted my mom send me for exams even though I had a very high fever. She did and I went to sleep during the exams and was in the hospital for a month with pneumonia. I was never a discipline problem and the supports I needed were fairly minor but the school constantly fought my mom on everything.... I hated school and did not care if I graduated or not. On the transition end, the only choice I was given as a work opportunity was washing dishes in a fast food place.

Liz, Parent

How disappointing it is to have to go out of district because your school district either cannot or won't provide services to your child. This is esp. true for students who have low-incidence disabilities or behavior issues. How inclusion may not be the answer, because the reg. ed. teachers do not know how to deal with kids with disabilities, as they don't feel like they are qualified. What is frustrating, is when a child is sent out of district or to a special school, while still in a preschool program and then years later, written on the IEP forms is how the child would best be placed in that type of program because they can't handle being in a reg. program and a reg. program has never been tried with that child. ... The district was reluctant to provide services due to the nature of the disability, so the child was sent to a different district and then to a

specialized school. Unable to provide educational services, behavioral services for a child with vision impairments and ADHD, after many years of problems with behavior, and a year of requesting a behavior management plan. ... [The clarity of the discipline procedures] Seems to be okay. ... Need to focus more on helping the students, esp. those with multiple disabilities, access transportation, assist student and/or parent how to go about accessing employment, what's available for students with multiple disabilities, could become acquainted with resources and criteria needed to get services. Also finding out about funding sources has been difficult. As we're told by the schools that ALL these different programs are available, and then the parents get their hopes up, only to find out that funding isn't available or that the student doesn't meet the criteria.

Jessica, Former Student, Utah

When I think of my school years and the special education law I get frustrated because my school was anything but cooperative. There were many teachers who didn't think I should have been considered for that, and were unwilling to make adjustments to my workload and how I was graded. They wouldn't work with my homebound teacher either. I didn't really have much of anything about the special education law explained to me, which made trying to get it to work for me harder because we didn't know what to do. I think many of my teachers thought I was faking being sick and really resented me for when they would get a slap on the wrist for not following the law. The administration and the school board didn't really do much to make sure the teachers were doing what they were required to do so then the teachers in a way really felt they could get away with treating me and my family like idiots without worrying about repercussions. Things got so bad and stressful that I was getting sicker so I left the public school system all together and graduated through a correspondence school. I'm okay with the choice I made, but I still have feelings of resentment towards those who were supposed to be on my side and help me because my situation was so different from other students. I really felt betrayed by

my school district and I don't want others to have to go through with that. I really think that there needs to be closer monitoring of schools and what they are doing about the students who are relying on the special education law. If the teachers can get away with disregarding the law time and time again they aren't going to stop and many others are going to feel stuck like I did and look for different ways to get the education they deserve and need. I think there needs to be a greater understanding of what this law will do for a student, and someone to make sure that the parents and the student fully understand everything about this law so that when the school is ignoring the fact that it is a law they will know what they can do about it

Isaac, Former Student

As to my feeling about special education, I didn't feel as if it was necessary, because I didn't lose my sight until I was 13, and I was main stream up to that point, and didn't feel as if I had to slow down in order to grasp what was going on in school. I was able to get through high school and college with being mainstream and without family support and the desire to learn, I don't know if I would have been able to. My idea of special education was that it was for people who wanted to learn but never had the support to do so, I always felt I had the support to handle mainstream and always was willing to do anything to learn. ... I didn't really know what was actually available to me in high school. I take the responsibility for that, because as a disabled person, I feel I should know what is available to me, in order to ensure that I get where I want to go. The things my school were usually hesitant about was providing the support within the classroom through tutors, or through waiver forms in dealing with what they considered being dangerous classes. (chemistry etc.) ... The discipline policy of IDEA, would only be clearer, if all parents and students who are disabled know about it in the first place. The language of IDEA is usually full of jargon and words that are difficult to understand. ... So to be broken down into smaller parts should make it easier to pass on to students. ... I wasn't ever placed in special education, because my family always felt I was able to handle mainstream. So I would say my background allowed me to step up and reach the potential of what I have. ... I would say that the way to make sure students learn further in this area, would be to see if the students have interest from the beginning of their schooling. Show the benefits of all avenues, and make sure that the students understand that the above things would only help to further them as a person.

Whitney, Student, New Jersey

The Individuals with Disabilities Education Act allows for very inconsistent application of the statute to everyday student life. Local administrators have great latitude and/or discretion in providing or denying needed services. While the child study team at my high school is exceptional, there have been incidences when non-special education school administrators appear to have simply ignored the provisions of my IEP.

Carla, Parent, Illinois

I have a son who is 16, at 4 months of age he was in an auto accident ... in 1992 the grand mal seizures started, so a regimen of meds, neurologists and tests were started, the EEGs showed that all the abnormal activities were in the areas he received the skull fractures. But even with documentation or any info about traumatic brain injury, its like the school doesn't really

care what is going on in my son's brain. For a long time they didn't even have TBI listed they had him in a class that was for emotional disturbed children and ultimately that led to a BD classroom, because he was exhibiting behaviors that the class couldn't or wouldn't accept. I keep trying to tell them they have to stop focusing so much on the behaviors, because if they can, they will see a change. But its like they continue to push him or myself to adapt to their way of thinking and they don't even care about the frontal skull fracture and what it does to behaviors. When I went to the IEP meeting hoping to meet the teacher I talked to on the phone but of course she wasn't there. ...They could all reassure me that these teachers were the best. Then why do I feel so bad inside, I just hate having to send my son to this school. I did find one thing that got them to thinking, I said I wonder what you all will do if the Corey H law is passed, and they said that if I wanted a good IEP in August I better not mention Corey H. ... I am a nurse if I treated my patients this way I wouldn't have a license or if a doctor didn't treat my son right he could be in trouble also and also as a parent if I didn't see that my son's needs were met I would be in trouble.

No Name Given, Former Student

I was not in special ed beyond preschool. My mother worked in special ed. I volunteered in spec. ed classrooms. Related services, I think of teachers and school administration constantly trying to put me in special ed classes, especially in physical education. None of the schools seemed to know what to do for me in physical education. I was not allowed to be exempt from it and take another class in its place, yet I was not physically capable enough to have everything regular gym class slightly modified. But I was not low function enough (physically or mentally) for special ed and adaptive p.e. It ended up being I was placed in adaptive P.E. as a peer helper. ...My schools kept trying to put me in special ed classes, remedial, and resource classes. I did require assistive and adaptive equipment such as a laptop, special pad locks as opposed to combination locks, etc. the laptop was the most difficult to have provided. One middle school never even gave it to me. They used my funding to help buy new football jerseys and kept telling me they didn't have a laptop available for me to use. ... For regular ed students with disabilities no services or preparation is given to us in anything but postsecondary education. And even that stuff I had to find out on my own. School counselors need to do a better job in working with students with disabilities prepare. Students are not aware at the time what to expect. Employment, post secondary preparation, transportation, healthcare and managing finances, and independent living are important, and I listed them in the order of importance. Community resources are as well, but that is something that social workers, and case managers can help with. The other things need to be started by the beginning of the second year in high school. My current biggest problems in being a college student are struggling with employment, post secondary plans, and transportation. Another thing that needs to be addressed for students of all disabilities is health/sex education.

Mary, Student

I am a 12-year-old who has been diagnosed with Chronic Fatigue Syndrome (CFS) and Postural Orthostatic Tachycardia Syndrome (POTS). I am currently finishing the 6th grade and have been ill with these illnesses for most of my life. By the 3rd grade I was unable to attend school at all and my parents worked with the school to have me classified as Other Health

Impaired so that I could receive services under the IDEA. The problem that they had initially was that my test scores showed that I was at the high end of my ability, even though my education was being severely affected by the illness. … In my consideration for services academic achievement was the sole criteria used in the evaluation for determining my eligibility for services. It was our understanding that all of the factors must be considered equally. Looking at our CFS specialist's evaluation, at my physical development, and at my management needs there seemed to be other criteria that lent itself to identifying me as a child with an "other health impairment" that was adversely affecting my educational performance. Eventually we were successful and I have had an IEP for the past 3 years that has offered me much help in completing my educational requirements each year. … I have a home tutor provided by the school who meets with me for 8 hours a week. I am expected to complete the 4 main subject areas. Most of my teachers have been willing to offer help in modifying and consolidating the workload to a manageable level for me to complete. I heavily rely on the word processor for writing, and on having a scribe when needed to write answers for me as I dictate them. A calculator is a service I am allowed though I try to only use it when I really need to. I have extended time on tests and often do essays orally on a tape recorder. The school has provided me with an extra set of textbooks to keep at home as well as a set and teacher's manuals for my tutor. My teachers work with the Special Ed. Consultant and tutor to turn units of study into packets and projects which prove much more manageable for me to do. I only have 3-4 hours of activity a day where I can function, so my lessons need to really be consolidated to get the most out of every hour I have. … I have been very fortunate in my school system because once my eligibility was accepted the CSE has been very supportive. They have been very open to our suggestions and those of the tutor to services that may benefit me, and have stuck by my IEP in following through with services. My parents have had to maintain an active role and remind the school of things we needed, such as extra textbooks, or use of a word processor, but the school has accommodated when reminded. Individual teachers have been our greatest allies and our worst enemies. If they try to understand my illness and limitations they bend over backwards to help me out. But some teachers have been totally unwilling to teach me via a tutor. They will not grade my work and resist modifying my workload. We have been fortunate to be able to find ways to work around these situations.

Jo Ann, Parent, California

The questions are too wordy/complex for my son, so I will answer on his behalf. He is an 18 yr. old high school junior with learning disabilities, namely dyslexia (central auditory processing disorder), inattentive ADD, rote/sequential/working memory deficits, poor executive function/organization/time management problems and dysgraphia. The adversarial, seek to delete, system in California nearly destroyed my son. He was diagnosed in 1st grade and spent K-5 in private school w/learning center to address his challenges. Unfortunately, we naively decided to move to neighborhood public middle school. Son was placed in gifted class with resource support (IEP). He put in a valiant effort, 2-3 hrs. of homework every night, but ultimately failed or received D's in core subjects. Parents placed him in a different private school for 7th grade-specializing in LD (on our own—only initial IEP meeting ever held during 6th grade). Made great leaps to catch up to grade level thanks to private school. For 8th grade son begged to return to community. Parents forced (district policy which was never shown) to

relinquish (voluntarily exit) son from special ed as condition of obtaining in interdistrict transfer to popular program for challenged learners across town. … To implement Section 504 in high school—school district conducted 5 lengthy IEP meetings, 3 mediation conferences, filed due process (intimidation tactic against parents), and performed 8 assessments (to counter 3 outstanding/state expert private assessments parents willingly arranged and paid for). Son missed nearly a month of class days due to assessments and begin called out of class for useless sessions with school psyche intern, fell hopelessly behind, despondent/depressed (first ever experience in his lifetime with rejection/hopelessness/confusion related mostly to excessive evaluations and lost school days). Son started acting out and eventually broke his hand (rage) and left home for 3 weeks. He felt he was a total loser, a disappointment to everyone. … In spite of years of evidence of special ed, expert reports, the IEP's were monopolized by a callous, belligerent "Director of Student Services."

Rosemary re. David, graduating with a regular diploma at age nineteen after 10 years

I never really understood anything in the IEP meetings. … Use simple terminologies

Rosemary, re Carlos, 17 year old, EH with auditory processing difficulty in 10th grade.

I don't know what services I was supposed to get.

No Name Given, Parent

I am responding re: my 6th grade child who has been in special education since the beginning of second grade: The first thing that comes to mind is that the school was not very forthcoming re: my child's issues. We were not given the testing reports until the IEP and the school never explained that we could have received them before then. It would appear that the district simply tells you the minimum if you will. We would constantly (and we still do) hear that your child is fine. But outside testing and her work product suggest otherwise. … District is reluctant to provide services that they have not done so before. Sort of like it is their practice not to so therefore they do not have to. They did not always provide services we felt were necessary and we found that we had to pay for them ourselves to either provide our child with what was necessary either because the district would not provide it or because the services offered were inadequate.

Student, prepared by Alison.

I am 6. I was kept in a resource room while my entire kindergarten at my school graduated on Thursday, May 23, 2002. I have been told by my teacher that she is tired of me. I want to be in the real classroom, and my parents have worked hard to get me there 80 percent of the day. Unfortunately that doesn't mean people will help me and be fair to me in that "real classroom." I get very upset when they put me in the resource room where everybody seems to be having problems. I need to be with strong kids that can help me learn. I am a boy with autism. My mother took the time to teach me to read when I was four, and she just taught me addition and subtraction. My school doesn't seem to know how to teach me. They are really good at making me upset and making me feel sad, and bad about myself. I don't know why they discriminate against me. I am different, but so are many people in the United States of America. Being different is hard when your difference is a disability. I need better laws to protect me from

people who want to discriminate and segregate. They fill the three school systems I have already attended. I'm sure they fill the country. Please protect me and my rights. I am very bright and I want to go to school, with the needed help, amongst strong children. They can help me.
My parents will never forget that the elementary school not only put me in a resource room during my kindergarten graduation, but they also didn't inform my parents of the celebration. This is a heart wrenching discriminatory act against my parents, because they advocate so hard for me to have the proper help in the proper environment. I hope the new laws will protect all children and parents from having such events occur.

Erin, Student

I've had Type One Diabetes for nearly four years now and Chronic Fatigue Syndrome for nearly a year also. I've had constant battles with my school district over absences related to illness and policies related to testing my blood sugar in the classroom. Currently it is against district policy to do so, so I must go to the nurse's office every time I need to. It is EXTREMELY inconvenient and disruptive to my education as well as other's, as some days I have to leave often. I am not in special education, but I am under an accommodations plan. … I don't think the discipline procedures need to be clearer. I think more accommodations need to be provided for Diabetics, however. … I think there should be more mandatory classes on matters such as personal finances, college prep, career sampling, etc.

Ken, Parent

Our experience with IDEA has been horrible because of what appears to be "playing stupid" by the school board. First, because CFIDS, MCS and Hughes Syndrome were NOT explicitly named under "Health Other"—we were told that we did not qualify because we do not have one of the illness that this applies to. … Second, absolute refusal of the school district to do any neurological testing—although all three conditions are know to have severe cognitive problems (like 99+ percent of the time according to the literature). They claim that we have seen no evidence of problems and the literature is irrelevant, "After all, the child is **still being passed** despite the poor attendance—you should be thankful for that "... They have even stated that state law prevents them from doing an IEP while attendance is an issue.... despite being presented with literature that home-based schooling is typical for this illness, they are maintaining an attitude that "we will address these issues, if they exist, once she is in regular full time attendance at school and recovered from the illness". … Third, the school district developed a "temporary IEP" that address only one or two minor and trivial items, and said that the other issues will be addressed once we received adequate independent consultations... and after four IME (and requests for more), they still maintain that they do not have enough information so are refusing to address other issues. NONE of the physicians used for IME had any clinical experience with any of her conditions. Four, Office of Civil Rights was ignorant of these complex medical conditions and accepted the school excuse that they needed more IMEs. OCR also accepted no IEP being developed for home-based schooling AFTER almost 250 days of absences in two years was missed. The "temporary" IEP does not address home-based schooling at all, yet the OCR deems it to be acceptable that no IEP for home-based schooling exists despite physician's written order to keep our child at home. This Junior High student is only receiving instruction in Math, Reading and Writing and this is by the whim of the district administrators

with no consultation with the parents or the child's teachers. … Five, the state "Home Hospital" rules are misapplied, and they claim that is all that they can do... these rules are for temporary illnesses and accidents and not chronic—the onus must be put on the school to develop an IEP after 10 school days of absence (same time criteria as for students suspended for disciplinary issues)—unless there is a physician's statement that it is temporary and not a chronic condition (both conditions should be required). i.e. A "Brad-lee Bill?" for the schools. … Six, although we requested our student records before IEP meeting only part were delivered AFTER the meeting. All meetings should have a section where the parent must indicate that they have fully received access to all of the records and adequate time to review it. OCR (Seattle) did not deem this failure to be of any significance! If the parent refuses to sign this acknowledgment, things must go to due process immediately to get these record issues resolved promptly. Our FERPA complaint about STILL not having access to the complete records is still unanswered (although it was sent certified).

The IDEA law can be made much better by adding to the "Other Illnesses"

Allison, Student, 18 years old

I have had CFIDS since the age of 15. I have been completely homebound through the entire illness. My school system was not supportive nor accommodating to my circumstances. I had to self teach myself high school. The school system would NOT provide me with a skilled homebound instructor in the subject areas I needed. I was forced to teach myself subjects that are not intended to be self instructed. I am pleased that I was able to graduate with my class this month, but it was of no thanks to the school. They knew nothing about CFIDS. We took out a 504 plan before my senior year. My parents still had to stay on them all the time. Frankly we could have sued them for neglect and not abiding by my 504 but we are not confrontational people. I am lucky that I have always been a strong student and was able to carry out the huge task they put on me. Thank you so much for letting me share my experiences. I hope that this will help others in the future.

Jennifer, Student, 16 years old, Ohio

Well first off I have Fibromyalgia and I have had it for a little more than 2 years now... when I first was diagnosed with Fibromyalgia I was in 8th grade... it was very very hard to get up in the morning and go to school... I felt horrible every day and As soon as I got home I would sleep... Well summer came and then the start of high school... I went from Aug-Jan and then I had to be admitted into the hospital and ever since then I haven't been back to school... Right now I am on a program called homebound where they send a tutor and my work home, it is actually very nice. When I was in school this year it was very unhealthy I would have to get up at 5:30 and be at school all day... I would come home eat and sleep until 9:00 get up do my homework and then back to sleep... it was no fun at all... Being in pain all the time is not fun and when you through school into it... its just 50 times worse...

Mary, Parent, Illinois

When I think about my daughter's years in school, I immediately think about a waste of her time it has been. The biggest mistake I have ever made is to listen to and rely on the so-called experts in public schools. Her education has not been special in any way, and it has been markedly inferior to her siblings. ... Although our school district would never be so stupid as to come out and admit that they did not have money for services, they denied services, financial concerns are always at the bottom of any decision made concerning special education. Services recommended by our IEP team were regularly denied. ... Specific factors such as cultural, ethnic, social or language background are definitely major factors in special education. This includes students who are nonverbal and who must rely on augmentative communication. Kids in special are minorities and their civil rights are shamefully violated on a regular basis. ... If OSEP and ISBE were forced to comply with existing laws, a better job would result in young people with disabilities being prepared in areas such as: Employment, Transportation, Housing, Managing my finances, Health care, Independent living, Connecting to resources in the community, and/or Postsecondary (college or vocational) education. Right now, it is up to the resources of the parents to enforce the laws resulting in great burdens to all members of the family.

Part II: Where Do We Really Stand? From the Public

Issue 1. Monitoring and Enforcement

How disappointing it is to have to go out of district because your school district either cannot or won't provide services to your child. Liz Miller, Parent

I am a nurse if I treated my patients this way I wouldn't have a license or if a doctor didn't treat my son right he could be in trouble also and also as a parent if I didn't see that my son's needs were met I would be in trouble. Carla Sullivan, Parent. The school system would NOT provide me with a skilled homebound instructor in the subject areas I needed. I was forced to teach myself subjects that are not intended to be self-instructed. Allison, Student.

On February 7, 2002, NCD issued a document entitled *IDEA Reauthorization: A Working Paper*. In an effort to seek answers to key questions, NCD asked stakeholders to respond to the following questions:

1. To what extent do existing federal monitoring and enforcement activities support efforts to provide effective special education and related services to improve results for children and youth with disabilities?

2. To what extent do existing federal monitoring and enforcement activities inhibit efforts to provide effective special education and related services to improve results for children and youth with disabilities?

3. What, if anything, should be changed to improve federal IDEA monitoring and enforcement of SEAs and LEAs? What would that/those changes look like?

4. To what extent does local capacity building need to occur for effective monitoring and enforcement of IDEA to be assured? How is local capacity building designed, implemented, and achieved?

The following excerpts from public testimony answer these questions, highlight the views of various sectors of the special education stakeholder community, and provide insight into the complexity of the monitoring and enforcement issues. While the statements included in this document reveal the diversity of opinion on the issues, it is clear that most experts in special education believe that a strong and effective system of monitoring, which includes an effective measure of enforcement, is an important component of IDEA implementation. The importance of engaging all stakeholders, including parents, in the process, is also a common theme.

But to dispel the notion that lawyers always want to litigate, I will say that we asked ourselves what we wanted to get out of litigation. And what we wanted was a monitoring process that actually worked. Leslie Seid Margolies

There were many ways my school could have helped me but they didn't, saying if they did things for me (for instance my mom wanted me to finish my last two years at a community college which has a good program for people with disabilities) other people would want such things. Even though there are laws some schools like mine find ways to get around them and make things hard for families. Adam, Student

After 15 months, our family spent more than $22,500 on attorney fees and 3 expert evaluations. The school district is estimated to have spent approximately $40,000. Ironically, at the end of the 15 months, the exact 504 Plan I had originally ask for (and the school site teamed eagerly embraced originally—until district office intervened) was again presented and adopted, Jo Ann Behm, Parent

I was kept in a resource room while my entire kindergarten at my school graduated. Alex, Student

Services recommended by our IEP team were regularly denied. Mary Dickter, Parent

Question 1: To what extent do existing federal monitoring and enforcement activities support efforts to provide effective special education and related services to improve results for children and youth with disabilities?

Summary: While few answers directly applicable to this question were identified in public testimony or other communications, there is a clear message that the current monitoring and enforcement activities are insufficient. Comments on the new Departmental initiative for monitoring—Continuous Improvement Monitoring—were positive. This concept is picked up again in Question 3 with a series of references to Focused Monitoring. Some argue for stronger sanctions, others argue for more targeted monitoring, some argue for both. More importantly, as reported throughout this document, are indications of significant implementation issues across the country which should be addressed with effective systems of monitoring and enforcement.

Mary, Student, Response to NCD Request for Comment from Youth, May 2002:

> Most of my teachers have been willing to offer help in modifying and consolidating the workload to a manageable level for me to complete.

Alice Parker, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> Monitoring in California: Our efforts have resulted in several statewide improvements. …The areas where things are going really well have a balance between procedural guarantee and outcome. …It is critical that all of the components are aligned: monitoring, technical assistance, training, the state implementation grants, and that all of the stakeholders, and

especially our parents, are involved in each aspect of that which we do and are clear on the alignment.

Barbara Gantwerk, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> [Much of the change in New Jersey] is due to the new but ever-changing monitoring system known as the Continuous Improvement Monitoring Process. …It allowed for state flexibility and has led to many changes in our state. …It has moved somewhat away from the compliance model to more of a program improvement model. …Another very positive aspect was the development of successful and collaborative partnership with the critical stakeholders in our state. …Because the model was such a good one for us, not an easy one, but a good one, we completely revised our own oversight system and monitoring system to replicate that model. …But the process led to improvement in a manner that was assumed to be very positive. The capacity-building funds enabled us to target specific problems in specific districts.

Asked by Commissioner/Ex Officio Member Robert Pasternack if the special monitoring conditions in N.J had helped:

> "…[The special monitoring conditions in NJ] did help us. [They sped] us into time warp zone to make some of the changes that we needed to make."

Question 2: To what extent do existing federal monitoring and enforcement activities inhibit efforts to provide effective special education and related services to improve results for children and youth with disabilities?

Summary: Insufficient enforcement, burdensome paperwork, inconsistent follow-through and slow turnaround on the federal level, long term patterns of noncompliance, too much procedure/not enough substance at the state and federal level, "big sweep"—no targets to identify and fix the real problems. Conclusion: There were no recommendations to cease federal monitoring, but an overload of comments illustrated the need for change to a less bulky, more timely, more focused system that results in solid outcomes for students and more classroom time for teachers. The recurring theme of the importance of including all stakeholders, including parents, found its way into this section as well. A lingering question about the paperwork requirements begs for an answer: "Does the common complaint of having too much paperwork stem from federal requirements or state regulations?" Some states have begun to recognize and address their issues on their own, others through the help from the Federal Government, or in some cases, the courts. Parents feel there is much more work needed on implementation. Parents are clear that the problems lie not in the Act itself, but in the implementation, taking us right back to the need for a strong system of monitoring and enforcement.

The administration and the school board didn't really do much to make sure the teachers were doing what they were required to do, Jessica, Student

There are clear implementation problems from the lack of enforcement—
U.S. Commission on Civil Rights, Recommendations for Reauthorization of IDEA, Washington, DC, May 2002:

> ...Despite the evidence of noncompliance, DOEd has made limited use of its authority to impose enforcement sanctions, such as withholding funds. As a result, the responsibility for enforcement has often been carried out by parents of disabled students who have invoked formal proceedings to ensure that their children's needs have been met.

Dr. Thomas Hehir, testimony before House Education and the Workforce Hearing, October 4, 2001:

> The history of federal enforcement of IDEA has been relatively weak. One reason for this is the relative small size of the federal work force devoted to this issue, about fifty people.

Representative George Miller, IDEA Newsletter, June 27, 2002:

> Some of the same proposals to significantly alter IDEA that were rejected in 1997 now are being raised again. Many of these, according to experts, could potentially weaken the legal rights of children with disabilities and their families: cessation of services; denial of due process; elimination or severe weakening of procedural safeguards; private school vouchers. Some have even proposed giving states or the federal Department of Education broad authority to waive IDEA statutory and regulatory requirements. These proposals are being made despite the fact that twenty-seven years after the passage of P.L. 94-142, IDEA's civil rights protections for children with disabilities have yet to be fully implemented. To make matters worse, Congress had an opportunity last year to fund IDEA at the level promised in 1975, but the Bush Administration and its allies in Congress rejected this proposal. While children with disabilities have made great strides in excelling within our educational system, many issues of serious noncompliance remain. States and localities continue to struggle with the mandate of educating special needs children in "the least restrictive environment" appropriate to their needs, and many other core tenets of the statute.

Carol L. Grissett and Carole H. Long, Parents, NCD Request for Public Comment, February 24, 2002:

> The primary problems appear to be (1) The blatant refusal of states to establish and implement policies, procedures, and programs to meet the provisions of IDEA; (2) The absence of any enforcement by authorities at the federal, state, and local levels results in the destruction of millions of children; (4) it is still impossible for children with disabilities placed in classes outside of the regular classroom to get access to the regular curriculum; (5) The

IDEA regulations are designed to take the education decisions away from the parents of children with disabilities.

Marca Bristo, testimony before House Government Reform Committee, February 28, 2001:

I want to stress that while the statutory framework of IDEA envisioned states as the primary implementers of IDEA, over five administrations, the Federal Government has fallen short in its efforts to ensure the protections of the law for children with disabilities are enforced. This study [*Back To School on Civil Rights*] confirmed what children with disabilities have repeatedly told NCD, that noncompliance has persisted in some states over many years, placing enormous burdens on children and families

Jim Comstock-Galagan, testimony at the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

The disconcerting fact is that traditional state education monitoring systems have repeatedly found local districts in violation of IDEA's LRE requirement, transition, over-identification, and the list goes on and on about substantive issues. This has spanned numerous years, and yet they [the violations] go uncorrected. …Long-term patterns of noncompliance are commonplace. …Little or no attention is paid to student progress or outcomes in monitoring. …Since IDEA was enacted, SEAs have almost invariably used a cyclical monitoring system where everybody gets treated the same. It doesn't matter what your LRE rates are, transition rates are, you're going to get what I commonly refer to as 'the big visit.' We've got to stop going into districts that are doing extremely well in all kinds of areas and saying, "we're coming for seven to ten days. We don't care how you're doing, we're going to look at everything." That's not common sense.

Barbara Raimondo, JD, NCD Request for Comment, May 29, 2002:

Current federal monitory and enforcement does not support efforts to provide effective special education and related services to improve results for children and youth who are deaf and hard of hearing. Monitors may see little if any information about deaf and hard of hearing children in the process and receive little if any input from parents of these children. Information about upcoming monitoring visits is not readily available and often parents of children with hearing loss are not included in the process.

Leslie Seid Margolis, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

Much of the lack of implementation of the IDEA is attributable to inadequate monitoring and enforcement at the state level and to a federal monitoring system that sweeps too broadly, focuses too much on procedures and too little on substance, fails to produce timely monitoring reports and engages in enforcement action only rarely and inconsistently.

U.S. Commission on Civil Rights, Recommendations for Reauthorization of IDEA, Washington, DC, May 2002:

> Uneven implementation of the law from one district to another, in the absence of uniform enforcement, has the effect of flooding "good" districts with special needs students when surrounding schools fail.

Lilliam Rangel-Diaz, Parent and Member of National Council on Disability, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> The findings [of the NCD Back to School on Civil Rights Report] were a confirmation and documentation that the statute is strong, but implementation and enforcement are thin and inconsistent. This study confirmed what children with disabilities and their families have repeatedly told NCD, namely, that too many students: (1) did not receive FAPE; (2) were inappropriately placed in separate settings; (3) did not receive appropriate services when served in regular classrooms; (4) had not been able to access critical transition services and supports;(5) were not provided with related services such as speech therapy, physical therapy, or psychological counseling as reflected in their IEPs. And, (4) did not receive the benefits of procedural safeguards and protections in evaluation in some states. In addition the report told us that students from diverse backgrounds are disproportionately represented in separate education settings. ... There are currently no clear and consistent effective (positive or negative) consequences for a state that continues substantial and persistent noncompliance. ...Without standards that define the limits and provide appropriate sanctions, the incentives for corrections have not been compelling enough to stop the cycle of noncompliance.

Barbara J. Ebenstein, NCD Request for Public Comment, May 31, 2002:

> ... The patterns of noncompliance revealed in Back to School on Civil Rights in 2000 continue to exist in 2002, and the burden noncompliance places on families is still tremendous. School districts deny specific kinds of special education and related services to entire classes of children—for example, adaptive physical education, limitations on extended school year, psychological counseling, outdated IEPs, and insufficient transition services.
>
> ... Most noncompliance is a deliberate cost-cutting strategy. Existing federal monitoring and enforcement activities do little to provide appropriate special education and related services to students with disabilities. State and local agencies know that there is no real risk of federal monitoring or enforcement. They also know that should the Federal Government decide to monitor, they will permit plenty of time to get into compliance with no penalty.

Monitoring and enforcement problems start at the top—

Alice Parker, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

We get timelines that we have to turn around so quickly and then we don't hear back for a long time. And by the time we get a response back, it's not one that we can use to inform our practice. We really need clarity about the expectations without things changing in midstream.

Barbara Gantwerk, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

Requests for major pieces of documentation from the states tend to be works in progress, and the request may change midstream.

Dialogue between Commissioner (Ex-Officio Member) Edward Sontag, Barbara Gantwerk, Alice Parker and Martin Gould at the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

Dr. Sontag: If the feds are not monitoring in a timely manner, is the law going to work?

Dr. Gantwerk: I think it's typical that the reports take a long time. … by the time we got the report, we had had another monitoring visit. So the report was on a visit prior to the one that we had and had to sort of update with another visit.

Dr. Parker: I would respond similarly. We get reports later than one can use them.

Dr. Gould: What may be underlying or causing reports to be late [is that] the initial versions of the report have analysis and facts in them that may be disputable and may have to be withdrawn because the work done did not stand up to scrutiny, analysis, and debate. If that continues to be an issue with staff, then perhaps there might be some need to help those folks in the area of data analysis and writing for those reports, so that you don't go through unnecessary redrafts and back-and-forth.

Dr. Thomas Hehir, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

I think empowering OSEP to be able to produce its own reports without a lot of other hands touching it would be central to that effort [of solving the problem of slowness of monitoring reports].

The issue of paperwork is frequently raised. As reflected in these comments, there is no one position on the question of paperwork. Administrators and teachers make a compelling case for the need to get a break from paperwork so they can get to the business of teaching. On the other hand, parents tend to believe teachers and administrators are hiding behind the paperwork issue to avoid the real and tough issues of providing quality education for their sons and daughters.

Assistant Secretary Robert Pasternack, testimony at the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 26, 2002:

> Even if a state was in full compliance, it still might not guarantee improved results and outcomes for students. … The reality is some of the monitoring has focused on the wrong issue … it's focused on process and on compliance and on regulation and not on outcome and results.

Dr. Martin Gould, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> I'd have to disagree that the civil rights law such as IDEA can be reduced to process. I think that some of the basic principles, particularly least restrictive environment is one that I have heard and seen Commissioners talk about as a key outcome and a result that's needed. I think there are many other instances where in the absence of following some fundamental provisions of the law, like looking at the individualized needs of a student, regardless of what some folks might think of the paperwork of an IEP, is an absolute necessity in developing accommodations.

Commissioner Adela Acosta, from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Hours spent on excessive paperwork, or its perception, is a significant barrier to effective delivery of education services to children with learning disabilities. Fifty-three percent of all special education teachers report that routine duties and paperwork interfere "to a great extent" with teaching.

Lillian Rangel-Diaz, Parent and Member of National Council on Disability, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> During discussion part of Senate hearing: As an active parent advocate in my community in Florida, I am not aware of the issue of too much paperwork for teachers. This is just not an issue in our state.

Barbara Gantwerk, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> This is a great law. We all agree with the goals of this law. One of the important goals is collaboration between families and schools, state and district, state and federal office, and this collaboration I believe is somewhat undermined by the incredible complexity, specificity and prescriptiveness of the law. And instead, sometimes-adversarial relationships are created. …Additionally, the law is not sufficiently focused on outcome. …It is more focused on compliance. …I do want to make certain that I mention that I'm very aware of the difficult task of balancing rights and protections with flexibility and simplifying the law. This is a difficult task.

Leslie Seid Margolis, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> Many of the problems attributed to the statute such as too much paperwork and too many meetings are actually the result of poor policy and practice at the state and local levels.

Chancellor Harold Levy, testimony from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> Too often teachers and other staff are diverted from their primary task of instruction. Even the most basic change in the student's IEP, for instance, requires teachers and other professionals to be pulled away from their core duties and spend significant time on largely administrative items. As a result, an inordinate amount of special education funding is spent on administrative compliance. This has resulted in a reduction in the already limited amount of funding available for improving instruction and supplementary services to students.

Dr. James Yselldyke, testimony from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> As I travel around the country, my diagnostic personnel tell me that they engage in far too much time assessing children, making predictions about their lives, and far too little time making a difference in their lives, and they tell me that is because the Federal Government makes them do that. I believe they are lying, but you have to help them understand that they can actually do some of these things.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

Current federal monitoring and enforcement activities include review of documents to ensure each state's laws, regulations, and policies are in compliance with federal regulations for the release of Part B funds. This time-consuming and costly process does little to improve results. In addition, OSEP monitoring of states uses a limited number o f school districts to identify systemic compliance issues. This system has traditionally focused on due process and procedural compliance issues rather than on results. We support many of the elements of the new continuous improvement monitoring process, especially the use of a self-assessment and a Continuous Improvement Plan that allows a state to place much greater emphasis on student outcomes. However, we are concerned that OSEP continues to prioritize process compliance, diverting state resources to issues that often do not have a direct impact on student performance.

William Dussault, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

I don't view the federal paperwork requirement as particularly onerous. I work with school districts—I've worked against school districts, but with them, too. And what I see from local school districts is 40 and 50 forms and they keep telling me, the teachers keep saying, "Well, the Federal Government requires all these forms." And I keep going back and saying, "no, it doesn't. Look at what your LEA is doing; look at what your SEA is doing. In fact, that's where your form requirements are coming from." I don't think you really have much ability to affect that paperwork issue at the federal level unless you prohibit SEAs and LEAs from a proliferation of paper at the local level, which is a pretty tough stand to take. But I really see that as not a function of the federal law, but a function of state and district responses to it.

Mr. Steve Brown, Parent, Comments from the community at the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

Compliance and discipline provisions are a safeguard so that children like mine are not effectively tossed out of the system. My son will likely not measure up to a set of standardized outcomes on that kind of a driven system. You know, he is not going to get a diploma. [M]y fear is that he'll become, at that point, a write-off, really no chance to be successful in an educational system. You discussed today the issue of paperwork as being independent to education. The paperwork that I see for IEP goals has really been a useful guide and not really a compliance chore. My unscientific observation, based on my own experience as a parent, is that complaints about paperwork and compliance issues are generally symptoms of the underlying and more difficult problems that really need to be addressed in special education.

Allison Brenneise, Psychologist and Parent, Comment at the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Paperwork is not the problem. I understand that we don't want to see 55-page IEPs, because we have them, and we have complete problems with getting the IEPs implemented. [W]e really need to focus on collecting data. If the staff who are working on the goals kept data when they were working with the child, their reports would write themselves, they would be able to have baselines.

Laura Gardner, Parent, NCD Request for Public Comment, May 19, 2002:

> As a parent [of a son with Ausperger Syndrome, Tourettes Syndrome, a learning disability and giftedness] when I read the IDEA regulations, everything appears to be in place. There are specific procedures, definitions, and Appendix A is quite clear. … What I hear about cutting paperwork and implementing uniform discipline policies is simply an outrageous attempt to give schools yet more control … a way to relieve them of obligation.

Jeritza Montgomery, Special Education Teacher and IEP Coordinator, Civil Rights Commission, Briefing on Reauthorization of IDEA, April 12, 2002:

> The main complaint is paperwork.

Dr. Kim Goodrich Ratcliffe, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> …The paperwork burden is fundamentally detracting from the education of students with disabilities…. The tail is wagging the dog when the focus of education is directed toward paperwork rather than effective instructional practice…. Even after extensive training, teachers find it necessary to stop and consult with a process coordinator or director of special education to ensure compliant paperwork.

Dr. Edward Vargas, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> The paperwork is firmly focused on compliance versus the quality of instruction; did we get all the forms right; did we get all the notices out? And very little time to really talk about relevant instructional interventions relative to that student's needs. …The majority of special educators spend a day or more of the instructional week on paperwork … Eighty- three percent spend a half to a day and a half days per week on IEP-related meetings. It's reported that 68 percent of teachers spend less than two hours per week on individualized instruction. And so, significant amounts of required forms, notices, and reports consume these blocks of teacher and administrative time.

Donna Carter, Parent, NCD Request for Public Comment, May 2002:

> I am a parent of a child with special needs. The IDEA act is wonderful on paper but it not enforced at the district or state level. With the parenting group I have attended several IEP meetings and have heard a variety of excuses why the IDEA act is not enforceable. District doesn't have enough money or teachers are untrained just to name two. There has to be some way to enforce what is already written. It scares me to think that teachers and district personnel already try to get out of the paper work and implementing the goals. If they make the IDEA act any more passive children with special needs will suffer.

Question 3: What, if anything, should be changed to improve federal IDEA monitoring and enforcement of SEAs and LEAs? What would that/those changes look like?

We must continue to insist on holding school districts and States accountable for ensuring that children with disabilities have access to early intervention services and a free appropriate public education in the least restrictive environment. We must be bold in our solutions, and committed to change areas that need improving, but steadfast where the law works well. Assistant Secretary Robert Pasternack, March 21, 2002

Summary: Monitoring and enforcement is not easily contained as one specific issue. An effective monitoring system involves an examination of the program as a whole: process vs. outcome-based monitoring, IEPs, data collection, and systems of accountability. Thus, this section is divided accordingly, with a lead-in of more general observations. While comments reflect a clear divisiveness between parents and systems on a number of the issues monitoring, there is clear agreement that there are significant weaknesses in the current systems of monitoring and enforcement. Recommendations for improvements include who should monitor and what should be monitored; enforcement; the relationship between the states and Federal Government, outcomes; participation of parents, students and teachers in monitoring activities; and, the role of general education.

General Public Recommendations

There is a solid sense that monitoring will not work unless accompanied by enforcement strategies, including sanctions for states that are chronically noncompliant—

Dr. Thomas Hehir, testimony before House Education and the Workforce Hearing, October 4, 2001:

> Support improved monitoring and enforcement of IDEA.

U.S. Commission on Civil Rights, Recommendations for Reauthorization of IDEA, Washington, DC, May 2002

> A complaint-handling process should be established at the federal level, and state complaint systems should be monitored by OSEP for efficiency and effectiveness. …The Federal Government must ensure that state special education programs comply with IDEA by gathering adequate data on each state's implementation and developing national compliance standards.
>
> DOEd should exercise its authority to sanction state and local education agencies that repeatedly fail to comply with IDEA by withholding allotments until compliance is achieved. To accomplish this, DOEd must conduct regular and thorough reviews of how states are spending federal funds. The amount of funds withheld should be based on level of noncompliance, and sanctions should be applied equally to all states.
>
> Compliance is best achieved through consistent federal enforcement bolstered by support activities performed by states. …[S]tates should be given the same sanction authority as federal enforcement agencies to ensure that local special education programs comply with IDEA. States should scrutinize school district expenditures and allocate or withhold funds accordingly.

Dr. Karen Scheinbaum, public comment before President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

> I request Congressional legislation to change aspects of IDEA to provide for equal application of IDEA across all states and to require states like Texas, the President's home state, to rise to the level of education offered by other states like California, New Jersey, and Maryland.

Dr. Batya Elbaum, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> The first principle is that the process should be public and explicit. …District-level data on key indicators must be made available to the public.
>
> The formulas used to select districts for monitoring must also be made public. …All data collection procedures must be communicated in advance to the districts ……all monitoring reports must be made public and disseminated not only to school personnel but also to parents and other stakeholders.

Paula Goldberg, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

We recommend strengthening the state complaint procedure by, one, requiring states to strictly comply with timelines, monitoring and enforcing findings and corrective action plans. And we also would like to see the complaints publicly stated as well as the resolution.

Elizabeth Brant, Parent, NCD Request for Public Comment, April 10, 2002:

Try to find a way to federally mandate some standards that the states must abide by when it comes to regulation of student services.

Rebecca Walk, testimony before President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

With the new monitoring process, we write a state improvement plan. It's a quality improvement plan. My belief is that plan should be developed before we get our state improvement grant because the plan is how we are trying to move forward in providing quality services for children with disabilities. States have to do a self-assessment. We determined in our own states what our needs are. Where are our own specific issues? My issues in Wyoming are different than Colorado's issues. My state improvement plan has to be directed towards what I need to do in Wyoming. The grant that I receive should drive that. So, the money that I receive from the state improvement grant should drive my plan.

Richard Cate, NCD Request for Public Comment , May 21, 2002:

Opportunities to waive certain federal requirements that may be barriers to creativity must be allowed when states and school districts are able to show effective and innovative approaches that improve results for students.

Barbara Ebenstein, NCD Request for Comment, May 31, 2002:

...We need to strengthen federal enforcement of IDEA. We need the State Education Departments to take their obligation to enforce IDEA seriously.

... Improved federal IDEA monitoring should include prompt but thorough investigations of parental complaints with federal review of state and local complaints and responses and unannounced random spot checks of some denied parental complaints; quick and severe penalties for deliberate noncompliance.

... Improved federal IDEA monitoring should include federal monitoring of state impartial hearing office training programs and review courses, state review offices in two tier systems, and serious state enforcement of decisions of the impartial hearing officers and state review officers that are not appealed.

....Funding of special education litigation by state Protection and Advocacy agencies through their own attorneys or their retention of private attorneys.

Christopher J. Dyer, NCD Request for Comment, May 31, 2002:

> We the disabled do not need new laws; we do not need more money spent on us. We need enforcement of the existing laws. We need equal access, adequate teaching, and appropriate accommodations so we can learn.

Marisa C. Brown, testimony before U.S. Senate Health, Education, Labor and Pensions Committee, June 6, 2002:

> Schools must be accountable for delivering the academic information to students that they need to fulfill post-secondary school objectives. Our experience was that the academic program was secondary to efforts to alter the student's disability.

Arlene Meyerson, testimony before U.S. Senate Health, Education, Labor and Pensions Committee, June 6, 2002:

> ....State and federal monitory and enforcement is essential to assuring accountability with IDEA mandates. These areas must also be enhanced so that chronic noncompliance is curtailed.
>
> ....For OSEP to be taken seriously in assuring accountability, it must revise its monitoring procedures and sanctions and enforcement must be vigorously pursued if compliance is not reached within a reasonable time frame.

Parents should not carry the burden of chief enforcer of the law:

Lillian Rangel-Diaz, Parent and Member of National Council on Disability, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> In other words, the real enforcers of the law are parents, and as I will discuss later in my testimony, they are not provided the tools they need to do this important work.

Kay Robles, Parent, NCD Request for Public Comment, April 11, 2002:

> Parents should not be bankrupting themselves in order to have the current laws followed.

A Parent Named Ann, NCD Request for Public Comment, May 15, 2002:

> IDEA needs to be enforced by the local school districts and state Department of Education. Due process procedures need to be there but only as a last resort to protect parent's and kid's rights, not as the main enforcement tool.

Victoria H. Sheehan, Parent, NCD Request for Public Comment, April 2, 2002:

> The reauthorization of IDEA should focus on … closing the loopholes that have forced parents to battle in a Kangaroo Court which most times lead to an appeal with a panel of clueless individuals—enforcing accountability of the current law ; and implementation corrective action procedures to coincide with the monitoring process of the SEAs.

Sandra Dunleavy, Parent, NCD Request for Public Comment, April 21, 2002:

> The only change that is desperately needed is enforcement and accountability. … It should not be the parent's responsibility to enforce IDEA and defend their child's constitutional rights.

Arlene Meyerson, testimony before Senate Health, Education, Labor and Pensions Committee, March 21, 2002:

> The more the federal and state Departments of Education fail in their monitoring duties the more the burden falls on parents and private litigation.

… but they should certainly be involved in the monitoring process.

Dr. Thomas Hehir, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> I think the monitoring system should, number one, include both parents and people who have disabilities, adults who have disabilities, who may have gone through the special education system, may have had a positive experience, may have had a negative experience, but they bring reality to the situation. …I also think in the monitoring system they should include local teachers. I think increasingly we're leaving the teachers out of the equation here, and I think that they need to be part of that.

Alice Parker, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> We need to increase the focus on ensuring that parents receive notice of substantial and substantive action so that they know what's going to happen when they come to meetings, whether it's a new IEP, whether it's a placement issue, whether it's eligibility and that they have the right of refusal. They need to know that the have a right to participate in those

decisions and to disagree with something substantive in the action, and they need to know how and be able to act on their rights.

Dr. Batya Elbaum, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> The process should involve parents and other stakeholders in all phases of monitoring, planning, implementation, and evaluation. It is especially important for parents to be members of these teams.

Some feel that the Department of Education cannot and should not do the job alone.

Nancy Diehl, Parent, public comment from the hearing before the President's Commission on Excellence in Special Education, Nashville, TN, April 18, 2002:

> [Enforcement] needs to move outside the Department of Education. ...It's really hard for the Department of Ed to provide all the technical assistance and support to school systems and then have to turn around after they've gained their trust and to slap them on the hand.

U.S. Commission on Civil Rights, Recommendations for Reauthorization of IDEA, Washington, DC, May 2002:

> The Commission supports NCD's recommendation that DOEd and the Department of Justice be directed to develop national compliance standards, improvement measures, and enforcement sanctions that will be triggered by specific indicators. ...Students, parents, and teachers should be consulted in the development of standards.

Carol L. Grissett and Carole H. Long, Parents, NCD Request for Public Comment, February 24, 2002:

> If something cannot be done at this time, the U.S. Justice Department needs to get involved.

Arlene Meyerson, testimony before Senate Health, Education, Labor and Pensions Committee, March 21, 2002:

> We propose the adoption of a provision modeled on the 1984 Civil Rights Act, which allowed parents to complain directly to the Attorney General in desegregation cases. This remedy exists side-by-side with the Department of Education's Title VI jurisdiction over desegregation cases. Likewise, parents of disabled children should have the ability to file systemic complaints directly with the Attorney General, who is empowered to bring a lawsuit to remedy the violation.

Marca Bristo, testimony before House Government Operations Committee, February 28, 2001:

Currently, the U.S. Department of Education (DOED) has neither the authority nor the resources to investigate and resolve individual complaints alleging noncompliance. The Department does consult with and share enforcement authority with the U.S. Department of Justice (DOJ). DOJ has no independent litigation authority. We found that, between the date it was given explicit referral authority in 1997 and the date this report was published, DOEd had not sent a single case to DOJ for "substantial noncompliance," and had articulated no objective criteria for defining that important term. In turn, the Department of Justice, whose role has been largely limited to participation as an amicus in IDEA litigation, does not appear to have a process for determining which cases to litigate. Congress [should] authorize and fund the Department of Justice to independently investigate and litigate IDEA cases, as well as administer a federal system for handling pattern and practice complaints filed by individuals.

Advocates for the most disenfranchised spoke out … While these comments do not make specific recommendations about monitoring and enforcement, the absence of services for them points to the need for change.

Kay Lambert, public comment from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

I'm a personal proponent of outcome and focus- based monitoring … But if that's the direction you choose to go, you must require measurable quantitative outcomes for all children. What I want to talk about today in my brief time is to ask your recognition of what I consider to be the most vulnerable children in the system, and those are the children with significant disabilities who live in institutional settings such as intermediate care facilities for the mentally retarded, nursing homes, a variety of care and treatment centers, and unfortunately, in Texas, state schools for the mentally retarded. These are the children who always get left behind. If you are able to design a system that does not leave them behind, it should serve everybody well. Many of these children who are school-aged receive their educational services at the facility. LRE is not even discussed, much less seriously considered. The physical space in which they receive their programming is often a patient bedroom. They have inadequate teaching materials, minimum staff, and few real educational opportunities. Why does this happen? In part it's because the arrangement best suits both parties. School districts often don't want these children because they are expensive to serve, and their parents do not pay taxes in that district. The facility is often understaffed and would just as soon not have to get children up, dressed, and ready to catch a bus first thing in the morning. The people who lose are the children. In Texas, our Charter School Law allows those facilities to apply for charter school status. If granted, the school district does not even have any responsibility for these children, and a new child can be admitted to the facility without even having notified the local school district. The children who do get to go into the local district for services tend to be segregated, not just with other special ed kids, but often with other children from the same facility in a separate classroom or a portable building that has been put on the grounds of a school campus. I believe, there are no outcomes, there is no accountability,

and there is very little going on in terms of meaningful instruction. This system continues in part because these children typically have no one that represents in the process. Surrogate parent requirements are not being followed. If the children have surrogates at all, they are likely to be one person who has been appointed to represent every child at the facility and does not even know the individual child.

Randi Turner, Advocate, public comment from hearing before the President's Commission on Excellence in Special Education, Houston, Texas, February 27, 2002:

I know a 14-year-old girl just outside of Fort Worth that has to write her questions on a piece of paper and hand them to her interpreter so they can be read to the teacher because the interpreter is not qualified. The IDEA does not have a definition for what a qualified interpreter is. The Americans with Disabilities Act does. I would like to see the IDEA amended and take on that definition. At least it would be a start. And require schools as well as the State Education Agency to ensure that those are the types of interpreters that are used, someone that can interpret expressively and receptively, using any necessary vocabulary for that specific situation, and be able to not just move their hands in the air, but also read what the child says.

Dixie Jordan, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

The Bureau schools, even those that are on tribal land, must be subjected to the laws of the United States of America. ...A single process should be in place where state agencies monitor BIA schools. ...At the very least, there has to be an intergovernmental agreement between the Bureau and each state Department of Education so that the Bureau schools have the same benefit from ... the monitoring system of the future, which they do not now have access to.

Wendy Snider, Parent, NCD Request for Public Comment, February 14, 2002:

Districts evade accountability by identifying children as learning disabled. They negate the unique need if unable to provide an appropriate education based on a specific type of learning disability. Dyslexia is included in this category; however schools evade identifying it as a specific learning disability. Various learning disabilities exist and should not be lumped together in one category of Learning Disabled. Add Dyslexia as a separate category of eligibility.

Barbara Raimondo, NCD Request for Comment, May 29, 2002:

[For students who are deaf and hard of hearing] the purpose of monitoring and enforcement instruments must be to promote systematic changes designed to define and eliminate weaknesses in the educational system in order to promote educational success for deaf and hard of hearing students on par with hearing peers. ... Language and communication access could be measured by evaluating [specific] criteria [related to language and communication needs of the students]; benchmarks must be put in place for

the accountability measure; the third part of the accountability measure would be a requirement for school action where students are not achieving at appropriate levels.

Sarah Webster, NCD Request for Comment, May 28, 2002:

> Children in foster care suffer a range of assaults on their well-being. Those children in foster care who are also in special education because of their significant academic and emotional needs are an especially vulnerable subgroup of this population. We understand IDEA is committed to meeting the needs of under served and diverse populations. However, IDEA makes minimal reference to students with disabilities who are also in foster care. The problems of mobility, insufficient cross training within the social service and education systems, and the lack of advocacy that plague most foster children are especially acute for foster children in special education.
>
> ...PRS believes that children in foster care and recipients of special education services have unique education needs and that these needs should be enhanced in IDEA ...because children in foster care experience many changes in care givers and school districts, school records are often lost or their transfer significantly delayed. IDEA should address the need for immediate access for schools to relevant educational data on foster children with disabilities. This could be accomplished through a statewide electronic database.

And other specific recommendations—

Rebecca Walk, comment from the hearing before the President's Commission on Excellence in Special Education, "Professional Development Task Force," Denver, CO, March 6, 2002:

> The SIG [State Improvement Grant] and improvement plan must be connected to monitoring, and it is not in all states.

Dr. Philip Burke, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> OSEP should be reorganized with the creation of major divisions for research, personnel preparation, and leadership, state assistance, and monitoring.

Process/Outcomes

Summary: Three common themes regarding the process and subsequent outcomes are again evident in public hearings: 1) Professionals make recommendations for reduction in paperwork and process; 2) The question of responsibility for the paperwork requirements—federal or state bureaucracy—gives rise to the possibility that clearer and more concise instructions are needed in order for the States to limit paperwork to include only the most essential information; and (3) More emphasis should be on meaningful monitoring

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activities leading to improvements in student outcomes. Recommendations for systemic simplification such as standardized forms for reporting also appeared regularly in the comments. Again, these issues frame a lively public debate over how much paperwork is actually necessary for implementation of the IDEA and whether it is the process itself or the implementation of the process that causes the problems.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

> ...The requirement that each state annually submit to OSEP documents that demonstrate compliance with each federal regulation is a cumbersome, time-consuming and costly activity that has little impact on the provision of services and improved results. This requirement should be repealed.
>
> ...The statute needs to consolidate the process accountability measurements in the planning and reporting requirements for both SEAs and LEAs.
>
> ... The complex and technical issues included in the basic constructs of the current statute have compelled federal, state, and local education agencies to focus on the technical and procedural aspects of the law, to the detriment of efforts to improve results for students. The monitoring and oversight of program delivery from both the federal and state levels should focus on the mechanisms for improving student outcomes.

Randi Turner, public comment from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

> The other point I wanted to talk about was the procedural requirements. I have seen a push that Congress reduce the procedural requirements in IDEA for school districts. This is one of the few ways that parents have to ensure or to follow up to track to see if schools are doing what they should be doing. I would like to ask that that not happen, that the requirements stay as they are. I know it's a lot of paperwork. It's probably also a lot of paperwork for the Immigration and Naturalization Services, the IRS, as well as the Securities and Exchange Commission, but we would never ask them to reduce their procedural requirements. Congress would most likely laugh at us. So I ask that you do the same thing and leave those requirements in place for school districts.

Robert Runkel, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> ... It is our job to maintain the protections of IDEA while solving our dilemma with paperwork.
>
> ...A local education agency can be in total compliance with every procedural step and still not guarantee positive educational outcomes for its students. That is why it is so important to continue to strengthen our focus on outcomes.

Katherine Beh Neas, testimony from the hearing on "Rethinking Special Education: How to Reform the Individuals with Disabilities Education Act," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 2, 2002:

> The CCD Education Task Force understands policymakers are committed to increasing educational outcomes for students with disabilities served by IDEA. We welcome that goal. In reauthorizing IDEA, the Task Force urges policymakers to analyze carefully each issue of concern to determine whether the concern results from a problem with the current statute or a problem of inappropriate, ineffective or incomplete implementation of the current statute. Such an analysis should guide policymakers in determining whether changes are required to enhance implementation of current law or whether requirements of the statute need to be changed.

William Dussault, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Procedural compliance is what we have been monitoring for the past 25 years. Litigation is a bottom-up accountability system. It is an accountability system that is oriented specifically to an individual case; it tests the system from the bottom of the system up, rather than from the top of the system down. We need both. I think it must be a combination of both a process and an outcome monitoring.

Dr. Sally Arthur, from the hearing on "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 8, 2002:

> Insist on a system that is focused on quality of instruction rather than compliance and process. Remove the constant threat of litigation over procedural compliance and focus it rather on accountability.

U.S. Commission on Civil Rights, Recommendations for Reauthorization of IDEA, Washington, DC, May 2002:

> State education officials should be charged with developing plans that lead to the desired outcomes. The IDEA is unique in that it is at the same time a state grant program and civil rights statute, requiring a balance between the flexibility necessary in the former with the uniform requirements of the latter. Federal standards of sufficiency are needed, but at the same time states should have the discretion to meet the unique needs of their districts and enforce compliance locally. The Commission finds that compliance with civil rights statutes such as IDEA requires proper implementation, not just adherence to procedural requirements. In other words, outcomes are as important as the process by which they are achieved.

Dr. Batya Elbaum, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Monitoring should focus on the extent to which students with disabilities are achieving important outcomes. Monitoring activities should be designed to investigate those areas of performance and compliance that bear the strongest relation to important outcomes so as to inform the design of interventions aimed at improving these outcomes.

Commissioner Adela Acosta, from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Policy makers and regulatory authorities must look for new ways to reduce paperwork so that teachers can focus on the most important task at hand, teaching children.

Bill Freund, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> Federal regulations requiring paperwork should be eased if it is determined that sufficient procedural safeguards exist. And I happen, by the way, to like quite a bit of the paperwork. There have been studies on paperwork in our state—in fact, several—and, in reviewing those, I considered them a roadmap for school districts to keep out of trouble, for one thing. But maybe something can be simplified.

Gene Lenz, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> ...IDEA must focus educator time, attention, and effort on what matters most... student results. ... IDEA must be simplified and complexity eliminated. ...If the current process and procedural requirements remain intact, then serious consideration must be given to limited state waiver authority,—for the purpose of implementing innovative practices at the local level when the community can all agree on what that would take.

Lawrence Gloeckler, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> Monitoring and oversight at the state and federal level has to be allowed to focus on improving outcomes rather than just devoting extensive time on every process requirement, significant or not. ...There's lots of room for consolidation of process. It's not about giving up rights. It should never be about giving up rights; those are fundamental. But the processes built around some of those benefits have become impediments. Some things have to be moved out of the way, because we only have enough time and resources to do what's important, and therefore we have to put in place what's important.

Dialogue between Dr. Joyce Bales and Commissioner Steve Bartlett, hearing before the President's Commission on Excellence on Special Education, Denver, CO, March 6, 2002:

Commissioner Bartlett: You may be the first superintendent in the history of—since 1975 not to complain about paperwork. And I am curious to know about that. Do you not have excess paperwork you want to complain about or are you trying to figure it out?

Dr. Bales: Actually, we have a business model, whereas the performance, the principal they received from performance pay depending on 65 percent of student achievement, and that also includes making sure IEPs are written and followed, and we look at those each quarter to be sure they're done correctly and accurately. IEPs are time-consuming, but it's in the best interests of children, and if I were making a blanket statement, I would say every child needs an education plan.

Dr. Douglas H. Gill, remarks from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 26, 2002:

Suggest development of federal forms as opposed to each of the states and locals, buildings, districts, et cetera developing their own set of forms. …which causes a cumulative effect on paperwork over time. … clarify exactly what the requirements in an IEP procedure, et cetera are so that we know so that when kids transfer from one district to the other we've got consistent information. … there's some commonality so that the IEP is in fact an instruction document.

Beth Foley, public comment from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

…Redirect the resources and efforts of the Department of Education and OSEP to provide states with support to improve student outcomes rather than focusing on the processes by which students are identified and served.

…Allow state waivers that provide flexibility in the design and implementation of programs. Focus federal monitoring and evaluation activities on improving student and system outcomes and program quality.

Alice Parker, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

Please clarify the purposes of IDEA. Clarify that the overall purposes of IDEA are both protection of rights and improving outcomes. We need to increase emphasis on educational issues and access to effective instruction. We need to decrease procedural prescription. The procedural prescription that talks about timelines have the same weight and value as improving outcomes, we need to look at what our balance is, what are our goals, what are the benchmarks of what is acceptable and move to that. We need to support OSEP to get on with their results-oriented oversight process and research-informed technical assistance. If rights protection is simplified and we're

looking at more substantial issues, OSEP will have more opportunity to work on outcomes, and the outcomes focus should be on ensuring that states use information on every child to guide and evaluate the effectiveness.

Dr. Edward Vargas, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> The goal of reducing paperwork in special education must be coupled with improving student performance and achievement for all students, particularly those with disabilities. If we do a better job on the front end, students won't need so much help afterwards. Special ed and general ed are inextricably linked and any meaningful reduction in paperwork cannot occur without looking at both systems and how one breeds the other. Reduce the paperwork in special education by reducing the over-reliance on special education for differentiated instruction; increasing the presence of high-quality differentiated instruction in general education for high- incidence of mild disability referrals. ...Leverage existing, new, and emerging technology towards increased web-based automation of routine processes, procedures, and clerical tasks. And then standardizing forms and data-collection procedures nationally.

David W. Peterson, Superintendent, Northern Suburban Special Education District, Highland Park, IL, NCD Request for Public Comment, April 5, 2002:

> Revise IDEA requirements so that local school districts are accountable for student achievement, LRE goals and other meaningful outcome measures. Minimize the process-oriented requirements and simplify the paperwork.

Dr. Maggie McLaughlin, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> We need an unambiguous, reliable measure of individual progress which should replace the paperwork compliance as our accountability tool. The legal concerns should not be about satisfying a checklist of services or procedures, but what has the child learned and has the child made adequate yearly progress toward those measurable outcomes. And finally, I think that—and this is, of course, connected to this—we must provide opportunities for local school districts, or local schools within school districts, to begin to highlight different approaches to designing and documenting FAPE.

Donnalee Ammons, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Three P's of poor performing pupils: Policy, Procedure, and Paper. These need to be replaced with some new P-words: Progress, Performance, and Product. And the product that we're looking for is successful outcomes for students. … We care about what happens to children, we measure success by the success of the students. If they're scoring well in high-stakes testing, if they're in regular classes and meeting with success, then the fact that a regular teacher didn't sign the IEP or that the LRE justification isn't written very well or maybe a box wasn't checked quite right, well, that isn't so important when what you see is that the outcomes for students are happening and those outcomes are right.

Commissioner Christopher Edley, Jr. remarks during U.S. Civil Rights Commission Briefing: The Promise and Practice of IDEA, Washington, DC, April 12, 2002:

> What we want over a period of time to get to the best ideas the research can tell us. …Figuring out an enforcement track that's keyed to results, to your progress, to some outcome measure about whether you're doing the job you're supposed to be doing, as opposed to relying exclusively on procedural due process kinds of strategies or paperwork kinds of strategies and looks instead at the back of the pipeline to see what's going on.

If paperwork is indeed the problem, it is imperative that the source of the problem surface and be fixed at the level that it exists—

Dr. Thomas Hehir, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> But I think it's important to recognize that paperwork just doesn't come from the Federal Government. And one of the things we realized when we looked at paperwork was that a significant amount in both of these states, close to half of the paperwork that was required by providers in the field were required by states and local school districts that were beyond what was required under IDEA. So I think this issue needs to be addressed, but it needs to be addressed in the spirit of partnership.

Dr. Martin Gould, testifying before U.S. Civil Rights Commission Hearing on the Reauthorization of IDEA, Washington, DC, April 12, 2002:

> Congress may or may not need to look at the states' own regulations that they have to write to implement a federal special education law. In some instances, states have written themselves into a corner.

Bill Freund, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> In Washington State, school districts and teachers complain constantly to the legislature about the burden of Special Education regulations and paperwork requirements. And the claim is that substantial portions of a teacher's day are spent doing paperwork. And, upon investigation, it turns out that most of the complaints concern federal requirements, changing roles of service providers, inclusion and building-based management. And, if possible, simplification of federal requirements without affecting …safeguards could improve the disposition of teachers and might increase teaching time per day. …There may be some opportunities for you to assess your requirements and maybe you can let go of some of the ones that are not all that important.

David Gordon, Testimony before the Senate Committee on Health, Education, Labor and Pensions, June 6, 2002

> The sad fact is that our current monitoring system has a voracious appetite for procedural minutiae and little or no interest in the real bottom line—whether or not students are achieving or accomplishing as a result of the programs we offer.
>
> When asked by Senator Chris Dodd about the genesis of the paperwork, whether the requirements are primarily from the state or federal requirements Mr. Gordon replied:: "… requirements may result from over caution by the states." He added that in his state this could be true, explaining that when one District was found out of compliance, the "state ramps up extra requirements for everyone."

Individualized Education Plan (IEP)

Summary: The IEP should be a "tool of instruction rather than a paper chase" a standardized, manageable document that provides a true blueprint for and documentation of progress. No one suggested that the IEP be abandoned—rather the tendency was towards standardizing the form so that there would be consistency across states. Once again, whether the required paperwork is a result of state or federal requirements seems to be an issue of debate, but there is no debate about the need to make this a workable, user-friendly document. The process must be made to be more user friendly for the parents as well, with one recommendation to hold fast to due process protections for the IEP and to oppose mandatory mediation as too dangerous for students and their families. Some feel that the fix is an abandonment of the short-term goals, while others weigh in strongly in support of the short term goals as a means of checking in with student progress during the year.

Dr. Kim Goodrich Ratcliffe, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> We need to flexibility to change IEPs during the time span covered by the IEP without sending legal notices of a meeting, without convening the full committee or rewriting the entire IEP document. … limit the requirement for a comprehensive IEP meeting to once annually.

Bob Vaadeland, testimony before Senate Health, Education, Labor and Pensions Committee, March 21, 2002:

> In Minnesota we are piloting Facilitated IEPs, where a state trained independent facilitator actually facilitates the IEP meeting. We think this could be a huge step in reducing adversarial situations.

Arlene Meyerson, testimony before Senate Health, Education, Labor and Pensions Committee, March 21, 2002:

> There is an asymmetry to the IEP conference that arises not only because the parents and professionals speak different languages and view the world through different lenses, but also because their status at the conference table is fundamentally different. … one party enters the discussion with control over resources while the other has only needs and rights. ..,. The negotiating process for the parent is, therefore, a matter of attempting to bargain for resources by citing needs—a frustrating and sometimes humiliating process. … Any proposal to dilute even further the parents' ability to utilize due process procedures should be resoundingly rejected.
>
> …Some believe the solution is the increased use of mediation, even mandatory mediation. While seemingly benign, these proposals threaten to entrench the power imbalance to the detriment of disabled children … Given the power imbalances between the two parties, there is high potential for a 'compromise' that does not adhere to the

statutes requirements for FAPE and LRE. … mediation could make it easier for districts to win concessions that would be harder to achieve through a formal hearing. It is for these reasons that proposals to mandate mediation are not benign.

Ken Lassesen, Parent, Response to NCD Request for Youth Comment, May 29, 2002:

> There is a major implementation loophole, if a powerful administrator takes an attitude against a child with disabilities, the entire IEP committee can be persuaded (for the sake of contract renewals...etc.) to conform to this opinion. It is recommended that: a) Roll-call votes (For/Against/Abstain) be done of all decisions b) that no more than 50 percent of the votes be assigned to employees of the school district c) that the child's MD's, independent psychologist, etc. comprised 50 percent of the committee votes. …The right to tape-record all IEP should be written into law. Denial of information and false claims appear to be rampant issues and this would allow this issue to be 'cleaned up'.

Dr. Rebecca Hamilton, testimony from hearing before the President's Committee on Excellence in Special Education, Denver, CO, March 6, 2002:

> I would like to replace the language for using IEPs and using things like expected performance task outcomes. What do you really want Amanda to be able to do? And how is she going to demonstrate that knowledge? A better statement for little Amanda might be she will demonstrate oral fluency by reading 80 to 90 words per minute of grade-appropriate text materials. That is going to deal with the issue of what is probably causing Amanda's problem to begin with.

Gregory Lock, testimony from the hearing on "Rethinking Special Education: How to Reform the Individuals with Disabilities Education Act," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 2, 2002:

> Standardize sections of the IEP to reduce the time spent reviewing and rewriting the document. …Provide for the use of technology to automate the written components of the IEP process. …When possible, tie the IEP goals to the annual assessments now required … eliminating the short-term objectives that impose a heavy time requirement on the teacher to include in the IEP.

William Dussault, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Being an unabashed fan of the current IEP requirements, I look at an IEP requirement that says I am supposed to have a baseline of data, current levels of performance on how Abe's functioning. I'm supposed to know where he is today. My suggestion is, you already have the tool that allows you to measure outcomes. You've determined the outcome by setting the goal; it's a valued item, "I want Abe to be able to do 'X'. I know where he is on 'X' now because I'm required to have a current level of performance; I know where he's supposed to be in three months, six months, nine months, and 12 months and I can measure it through objective criterion." If you simply use what there is now and implement it without anything further, implement what's there now, I don't have a case. And I'll tell my parent that.

Paula Goldberg, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> We strongly support keeping the short-term objective to help parents and teachers know where the student is progressing. We strongly support keeping the annual IEP as a tool for learning with outcome. It is the heart of IDEA. We recommend that OSEP develop a model that includes outcomes.

Chancellor Harold Levy, testimony from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> [The IEP should] address four basic questions: Where is your child now -- where is the student now? Where should the student be?; How are we going to plan to get that student there?; and How are we going to evaluate and measure whether, in fact, the student gets there?

Dixie Jordan, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> The other part that really works is the IEP process. People complain about its length and the amount of trees that have to die in order to write down the service continuum for children; and, indeed, I agree that there are probably ways that the IEP document can be shortened so that the requirements are clear to both state agencies and local education agencies, that the federal requirements for educating children through the IEP process do not demand a 19- or 25-page IEP, they demand that we write legitimate goals for that child's progress, measurable objectives in order to evaluate whether progress is being made, a fairly small group of people.

Dr. Susan Hasazi, testimony before President's Commission on Excellence in Special Education, Nashville, TN, March 2002:

> …Implement effective practices and develop policy for more closely linking the IEP and transition plans. IDEA currently requires, quote, a statement of transition service needs for all students with disabilities at age 14. Then at age 16, quote, a statement of needed transition services. The definition of transition services assumes an interdisciplinary, inter-agency, and community focus that requires leaders who are willing and able to look beyond the school campus and involve the community at large. In this regard, I would hope that OSEP continues to fund personnel preparation grants and leadership that include both general and special education administrators and relevant human services leaders who can collaborate with colleagues both within and external to the school.
>
> … Support the development of strategies for enhancing parent participation in the transition-planning process. Parents often lack the needed information regarding the purpose and processes associated with transition planning including knowledge related to community agencies and resources. Relatively simple strategies such as providing information on the IEP transition process prior to meetings, maintaining open and frequent communication among parents, school, and agency personnel and formally acknowledging the critical role that parents and students play in the transition process can help build more-trusting relationships between parents and teachers.
> …Support the development of strategies for enhancing parent participation in the transition-planning process. Parents often lack the needed information regarding the purpose and processes associated with transition planning including knowledge related to community agencies and resources.

Ron Benner, Psychologist, public comment from the community at the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> I would suggest that the government give us the individual education programs forms they want filled out, make it uniform across all states.

Sheila Buckley, public comment before the President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> Change the behavior plan into an inclusion plan, and make it for all students requiring like a 20 percent or more self-contained classroom have an inclusion plan for them. Instead of addressing the child acting out, change it to what strengths does the child have that can contribute to their success in the classroom. … really make the functional assessment a requirement instead of just something that they need to do if they really, really have to or the parents sue us.

Dr. Edward Vargas, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Streamline the IEP process away from one-size-fits-all without impeding students' and parent rights. For some students, you don't need the 19 pages, if you're looking at some quality reading instruction. Allowing flexibility in the scope, nature, and timing of requirements in IEP reviews relative to the need and based on results. ... I'm not sure that a one-size-fits-all is really helpful. Some students do need five, six, seven, eight, people that are in IEP and regular reviews. In fact, I would argue I know some kids who need to be reviewed at least every six weeks. But there are others that maybe don't need that and so, allowing for that flexibility would help to address part of this paperwork burden that people are feeling.

Dr. Richard Schoonover, testimony from the hearing on "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 8, 2002:

> Rethink the Individualized Education Program (IEP) process to emphasize that it is primarily an instructional process, not a compliance process. If necessary, create a compliance process and document separate from the IEP.

Lynn Fuchs, testimony before President's Commission on Excellence in Special Education, Nashville, TN, March 2002:

> It's, therefore, critical to supplement general education tests with an accountability system that provides a more proximal and sensitive framework for indexing learning. In fact, a second approach to accountability already exists in the IEP process. But for years IEPs have been based on a mastery measurement framework which creates onerous paperwork while failing to provide a basis for quantifying outcomes. Most agree that the IEP system requires revamping. We argue that CBM (curriculum-based measurement) should become an important part of a revamped IEP process.

Wendy Snider, Parent, NCD Request for Public Comment, February 14, 2002:

> Parent input is denied and not documented. If parent input is denied and not documented, parents should be able to conclude the District is unable to provide FAPE ... and use this as a procedural violation.

Vernon M. Arrell, NCD Request for Public Comment, June 2002:

> To better prepare students with disabilities for life after high school, Transition Planning Services as stated in the Individuals with Disabilities Education Act (IDEA section 300.347), should focus on strengthening links between high school and real world experiences for students receiving special education services. ...

Measurable goals and objectives to strengthen links should include educational and community activities that promote the following:

- Decision making
- Self-advocacy
- Community-based employment opportunities
- Age-appropriate instructional setting
- Curriculum and instructional designs that focus on real world and practical application of academic principles
- Education and Information about state and community programs and resources
- Recreational and civic activities to foster community integration and involvement

Data

Summary—The issue of uniformity emerges as a common theme, especially in data collection, to ensure comparability across all states. Recommendations are for data that is useful to states for improvement purposes; it must be accurate and replicable; it must be outcome-based and meaningful to individual students; it must be aligned across local, state and national lines and it must also be in alignment with data from the No Child Left Behind Act. A minority opinion - comparisons of data should remain in state, that is, state data should only be compared to other instate data to measure and improve state programs rather than compared across states.

U.S. Commission on Civil Rights, Recommendations on the Reauthorization of IDEA, May 2002:

> ...More money should be allocated for IDEA research, including the development of a single uniform data collection effort nationwide.

Commissioner W. Alan Coulter, remark during the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> I was struck by your comment that, if I heard this correctly, that OSEP permits different definitions as data are reported? There was no good answer to this - the states want not to be compared to incomparable states.
>
> *Alice Parker* - I don't want to be compared to them. I want to be compared to California over time. Are we making progress in that area?
>
> *Barbara Gantwerk* - I think the issue is, what are the data used for? If they're going to use it to compare states to states and then identify problem states, then the data have to be comparable.

Sheila Buckley, public comment before the President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> Report suspensions and expulsions of students with IEPs, as well as the graduation rates because a lot of these kids end up in prison when they don't get services.

Donnalee Ammons, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> I would think that many states would continue to look at exiting with a standard diploma in performance on the high-stakes testing is a factor in assessing systems.

Alice Parker, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> We need to reconceptualize data collection and analysis. In order to support increased emphasis on outcomes, data collection needs to focus less on standardized testing from states for the purposes of cross-state comparisons because we have different standards. We need to have national ideas of where you want the states to move and measure for that. We need to focus more on making data useful to states, and states need to do it, conversely, making it useful for districts in guiding and assessing the effectiveness of their own improvement efforts.

Dr. Batya Elbaum, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> The process should utilize rigorous research methods. Multiple data sources and data-gathering methods should be used. It should be possible to trace all data back to their sources so that the accuracy of the data can be verified. The data-gathering process must be described in great enough detail so that it can be replicated. This means that it would be possible, in principle, to have a different team of monitors apply the same procedures to a comparable sample of individuals, schools, and classrooms in the district. The process should be feasible. No state can investigate every valued outcome of a free appropriate public education and, even if the focus is on a single outcome, no monitoring system can apply every conceivable data-gathering method to the investigation of that outcome.
>
> ...There is a component to the overall monitoring system, which is what we call the "random component" really big outcome variables, high school graduation, completion, exit with a standard diploma, participation with regular education students, and those are relevant and exceedingly important to post-school outcomes for a large percentage of students in the

system. However, I would like to acknowledge that there are students who—for whom the most important outcomes are not captured in the ones that I've just mentioned. So, for our more severely involved students, there may be other outcomes that need to be looked at that are not captured in those very large outcome indicators. And those need to be looked at, as well. Some of my research is on social outcomes for students with disabilities, I look at the issues of self-concept and friendship and social adjustment. And, thus far, we have not developed state-level or national-level indicators of progress in those areas; and I think that's something we should be looking at, as well.

...State educational agencies should work collaboratively with stakeholders to develop a common understanding of how data can and should be used to inform the monitoring process. My next recommendation is that SEAs should use multiple sources of data and multiple data-collection methods so as to make the findings of monitoring visits as robust as possible. ...SEAs should make all data and data-gathering procedures public and explicit; they should also streamline data collection and compilation procedures so that high-quality reports can be produced within several weeks of a monitoring visit.

...SEAs should have their monitoring activities reviewed and evaluated by an external evaluator to assess the extent of stakeholder involvement, the consistency of implementation of established monitoring procedures, the reliability of the data collected, the extent to which the findings are supported by the data, and finally, the usefulness of the monitoring report in terms of providing guidance for future action.

Barbara J. Ebenstein, NCD Request for Comment, May 31, 2002:

If the Federal Government really wants to monitor outcomes, it would have to require SEAs and LEAs to monitory high school graduates with disabilities. How many graduate with a regular high school diploma? How may are employed immediately following high school?

Missy Steed, public comment from hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

I strongly suggest that the Commission look at the inclusive education setting data of the secondary schools taken out of the elementary setting to see what those numbers really are in the State of Texas. The biggest benefits of the last reauthorization of IDEA is the statement of students' rights to have access to general curriculum, the strengthening of parental roles, the addition of regular education teachers on the IEP team, and the requirement for the team to consider assistive technology. The educational services and opportunities that a student with disabilities receives should not depend on the knowledge of a student's parents or the Zip Code that a parent or student lives in.

A Parent Named Ann, NCD Request for Public Comment, May 14, 2002:

> I would like to see reported somewhere … the case load of the service providers, number of paraprofessionals and mental health personnel.

Daniel Reschly, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> We urge combining the OCR and the OSEP data collection procedures... To make sure that happens, to make sure that we get the right information with the least amount of intrusion on the schools as we possibly can.

Cathy Healy, testimony from the hearing before the President's Commission on Excellence in Special Education, Washington, DC, April 30, 2002:

> Develop a national data collection and tracking system to determine which children in foster care are served under IDEA and what their outcomes are.

Dr. Susan Hasazi, testimony from the hearing before the President's Commission on Excellence in Special Education, Nashville, TN, April 18, 2002:

> School districts [need] to conduct follow up studies to determine what has happened to these young people in terms of employment, independent living, connections with their communities, and so on. It needs to be used for program improvement.

Rick Tisch, public comment from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

> Schools must be held accountable for student outcomes. Accountability ratings of schools should include the percentage of student goals reached as set out in the student's transition plan. The assessment should report on student status within four years of leaving school either through graduation, dropping out, or aging out of the school system.

Jim Comstock-Galagan, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> If we're going to monitor—and we do need to monitor—they need to be able to generate data that determines whether local education agencies are providing a free appropriate public education, and they need to generate data and information that will support technical assistance, training, and if necessary enforcement activities directed towards obtaining compliance on real issues. [e.g.], Fundamental to 95 percent of all parents in this country is the issue of LRE. And the reason it is fundamental is because we know what happens to kids when they end up in pull-out programs.

Daniel Losen, New Research on Special Education and Minority Students with Implications for Federal Education Policy and Enforcement, Citizen's Commission on Civil Rights, Part Two: Discriminatory Practices in Education, Chapter 18:

> Perhaps the best way to measure whether quality has improved is by using graduation rates for accountability purposes under the IDEA along with test scores reported by race and disability under Title 1.

Beth Foley, public comment from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

> And to the extent practical, establish systems of accountability and performance standards based on common data elements and definitions and collected in common formats.

Accountability

Summary: The first statement in this section—that of Sally Arthur sums up the bulk of the responses in this section: "Accountability systems should include special education students—both in assessments and accountability." The law now requires that all students be tested, but according to public comments, most schools appear to be stopping there, with few results from special education students finding their way into the accountability reports. Recommendations are for reports that include the assessment results for all students; individualized accommodations and/or alternate assessments, as needed for individual students; and consistency in reporting across all states to ensure comparability.

Dr. Sally Arthur, testimony from the hearing on "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 8, 2002:

> Accountability systems should include special education students. High stakes assessment, however, is not the only quality indicator of our nation's schools. Students should not be penalized for the lack of ability to perform on a standardized test. True quality alternative pathways ensuring graduation for our students with disabilities need to be made. Millions of student futures are at risk. Build a system with encouragement to remain in school, not punishment for disability, poor instruction, or unforgiving environments.

Dr. Thomas Parrish, remarks from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> If we can figure out the accountability part, a lot of the rest of it would kind of fall by the wayside. And so that would be one recommendation, in my view, is we've got to figure that part out. So I would say the second has got to be—the first one is accountability and maybe the second one is accountability, in my view, in terms of thinking about what we really mean about accountability.

Dr. Bennett Ross, public comment, hearing before President's Commission on Excellence in Special Education, Finance Task Force, Los Angeles, CA, March 21, 2002:

> And I think accountability is a wonderful thing but I think we need to be very careful when we talk about accountability. For the kids with learning disabilities, you want to look at outcomes, you want to look at how these kids are doing; but you don't want to really be looking at whether or not they are passing the high school exit exam, you want to look at whether or not they are functioning as adults in the community. You want to look at what are the attributes that predict success that lead to that. And so I think we need to be very careful when we set up guidelines and accountability standards that those standards are in keeping with what it is that we really want to achieve.

Dr. Patrick Wolf, testimony from the hearing on "Rethinking Special Education: How to Reform the Individuals with Disabilities Education Act," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 2, 2002:

> Greater customer choice is likely to enhance accountability in special education. The power of parents to move their disabled child out of a program that is failing and into a more promising alternative would likely improve the educational results for that child and motivate more teachers and administrators to achieve positive results for their students with disabilities. ...By using the metric of student-specific educational gains instead of an arbitrary standard of attainment to evaluate special education students, the system would automatically control for a number of pre-existing conditions that are particular to each student. The use of gain scores also minimizes the incentives for classifying a non-disabled student as disabled, since they measure individual progress instead of lowering the achievement bar.

Assistant Secretary Robert Pasternack, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> The inclusion of children with disabilities in these assessment programs does not necessarily mean that these children are part of accountability systems that are designed to ensure improved results. ... We must build on the accountability provisions enacted in NCLBA to ensure that States and local school districts are accountable for results and that students with disabilities are included in rigorous assessments of student performance.

> ...We need to do more to provide research and technical assistance on alternate assessments and appropriate accommodations for children who need them. ... we need to push for assessment tools that are created using universal design concepts that can significantly reduce the need for alternate assessments.

Assistant Secretary Robert Pasternack, remarks at the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 26, 2002:

> Students with disabilities have to participate in state and district mandates tests. It [the law] does not talk about students with disabilities participating in the accountability system... Consider looking at changing the statutory language so that we in fact insist on students with disabilities having to participate in the accountability systems.

Robert Runkel, testimony before Senate Health, Education, Labor and Pensions Committee Hearing, March 21, 2002:

> While state standards measured by achievement tests have great value, it is important that these tests are kept in balance with other key outcome indicators. Along with achievement scores, these outcomes include: graduation rates, dropout rates, numbers of disciplinary referrals, rates of employment following graduation, rates of enrollment in postsecondary education programs, and parent and student satisfaction.

Jean Palochino, public comment at the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

> We need guidelines with targeted behaviors and skills for holding a job, living independently, and participating in society, and examples of models that get results. As a component of any accountability recommendation, I urge you to include provisions that address this important issue.

Barbara Raimondo, NCD Request for Comment, May 29, 2002:

> The following principles must be followed when considering the use of assessments and accountability to raise student achievement:
>
> - Deaf and hard of hearing children should have an equitable opportunity to demonstrate their knowledge, skills and abilities;
> - Appropriate and individualized programming and assessment for deaf and hard of hearing children are needed;
> - Individual accommodations and modifications in administration are needed;
> - Attention must be paid to the child as a whole; and,
> - Assessments should be performed for the purpose of identifying and correcting weaknesses in the educational system, not for high stakes decisions.

U.S. Commission on Civil Rights, Recommendations on the Reauthorization of IDEA, May 2002:

Accountability measures and performance outcomes must be established for school districts and states to ensure that students with disabilities have access to early intervention services and free appropriate education in the least restrictive environment, as required by the law. Such measures must also include accountability for achievement and ongoing progress assessments of students with disabilities.

Gene Lenz, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

IDEA must require, consistent with No Child Left Behind Act, the establishment of a rigorous, all-inclusive accountability system that is focused on student performance and program effectiveness measures. Characteristics of the system must include: [1] Measures of student performance and program effectiveness that include the establishment of yearly stretch targets or goals across subgroups of students. That is, you must disaggregate by race and ethnicity and limited English proficiency and poverty. [2] Full disclosure and reporting of state, district, and campus results to the public so that everyone can make an informed choice, also disaggregated across student groups. [3] Sanctions and interventions in states, districts, and campuses when stretch targets and goals are not met. [4] Continuous sanctions and interventions until such time that the state, district, campus begin to show progress toward those goals. [5] And then, ultimately it needs to tie into what's happening in the state as a whole, and that is a report the state, district, campus results to state, local boards, legislators, governors, Congress, et cetera as it relates to meeting those stretch goals and targets.

Lawrence Gloeckler, from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

Every student has to be included in the accountability system. Accountability must be on key performance indicators. If you measure everything, you measure nothing. Measure what is really important. … All students must be included in all systems of accountability for student results. …Accountability must focus on key performance indicators. …Data must be collected on key performance indicators and disseminated widely in plain language to stakeholders and the public at large.

Dr. Lizanne DeStefano, testimony from the hearing before the President's Commission on Excellence in Special Education, "Accountability Systems Task Force," Des Moines, IA, March 13, 2002:

> It is time for the Federal Government to begin to endorse basic principles that underlie effective accountability systems and to promote the adoption of those principles through its entitlement and discretional programs. …Provide guidance for and monitor the quality of state accountability systems. …All students with disabilities are included in the assessment system, LEAs and SEAs should report the number of students who are not included and the reasons for exclusion. …Decisions about disabilities are included when students' scores are publicly reported in the same frequency and format as other students, whether they participate with or without accommodation or an alternate assessment. …The assessment performance of students with disabilities has the same impact on the final accountability index as the performance of other students, regardless of how the students participate in the assessment system. …There is improvement of both the assessment system and accountability system over time through the process of formal monitoring, ongoing evaluation and systematic training in the context of emerging research and best practice. NAEP should be improved using principles of universal design, [and developed] as an exemplar of a universally designed assessment. …Promote the use of technology to enable educators, parents and policy makers to ferret out the connections between student outcomes and education processes and plan for change.

Dr. Martha Thurlow, testimony from the hearing before the President's Commission on Excellence in Special Education, "Accountability Systems Task Force," Des Moines, IA, March 13, 2002:

> Require states to include all students with disabilities in accountability systems regardless of the way in which they participate in the assessment system. …Alternate assessments, when they've been carefully developed can serve the same function for driving improvements in instruction for students with significant disabilities. …Allow those alternate assessments to evolve through the typical assessment development process. I think that there are many states now that have really followed that process, so that they think very carefully about what the standards are, that they go through a process of scoring portfolios if that's the approach that they use, that they do standard setting in the same manner that standards are set for regular assessments, that in those cases of thoughtful processes resulted in an alternate assessment that truly does identify standards for students with the most significant and complex disabilities and that can assess whether students are proficient or not. …Limit the array of alternate assessments so that states do not shuttle students into non-standards-based assessments. Off the shelf individualized assessments is an avenue for an alternate assessment that I worry about.

Dr. Gerald Tindal, testimony from the hearing before the President's Commission on Excellence in Special Education, "Accountability Systems Task Force," Des Moines, IA, March 13, 2002:

> Need to be thinking about links between the classroom assessments and the large-scale assessments. … there should be [common] guiding principals that provide the blueprint for state assessments … some very specific pinpoints that would help states leverage appropriate assessments, whether they be of the functional living skills of the academic skills. …We need alternate forms or an alternate assessment system …linked to state testing and/or standards. …On state report cards: it is very critical that the public be uniformly reported to and that we don't have different systems.

Alice Parker, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> We need to ensure that all children are included in the accountability system. We need to require that state general education data systems ensure that the entire population of students served in special ed can be identified for purposes of accountability and governance. And we need to acknowledge that some children have very different learning needs and different ways are needed to assess them.

Dr. Edward Vargas, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Allow for the substitute of norm-referenced assessments with quality criterion-referenced, standards-based performance assessments emerging in regular education reforms.

GAO Report, "Title 1: Education Needs to Monitor States' Scoring of Assessments," April 1, 2002:

> Only 17 states are in compliance with ESEA requirement to establish curriculum content and performance standards, assessments aligned with content standards and accountability system to assess programs in raising student achievement. Thirty-five states are not in compliance, and one of the issues reported was failure to take steps to ensure that students with disabilities are accommodated in the systems of accountability. Forty-one states reported that had taken such steps but there was no assurance the guidelines are followed. According to the NCLBA, states that are not in compliance by 2004 face withholding of funds. States report hiring contractors to score the tests, but most do not monitor the work of the contractors. GAO recommends that Education include monitoring of state actions regarding contractors and scoring provisions in state compliance.

Barbara Gantwerk, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> It would be helpful to have assistance and direction as to how to do this in an educationally appropriate way, and in a way that will be acceptable to all the monitors that are going to come in from the various programs and tell us if we've done it right. We'd like to have that before, understanding that states will do things differently. …So, I think it's critical to have clear directions from OSEP.

Dr. Thomas Parrish, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> The current accountability system is misguided. There are at least three kinds of accountability, fiscal, procedural, and results. All three are important and need to continue in one form or another. But the first two are only important in relation to the third.

Focused and Targeted Monitoring

Summary—How are we really doing in educating students with disabilities in our classrooms? There was a repeated message that the traditional monitoring system has been more about filling out forms than collecting data that reflects the effectiveness of the system and how well individuals are doing in that system. The focus should be on those areas that are problematic, rather than a broad sweep, with monitoring and technical assistance activities targeted to solutions. The message is not "toss out monitoring," rather, make it a meaningful activity that will benefit students, teachers and administrators.

Leslie Seid Margolis, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> The problems with federal monitoring have been persistent enough and pervasive enough that a few years ago a number of advocates from protection and advocacy agencies and national disability and education groups joined together to determine a course of action that would result in meaningful change. It's this process and the resulting work with OSEP to develop a focused monitoring system that I would like to talk about today. …We have identified possible OSEP interventions ranging from technical assistance to sanctions, along with a system for how the determination of what level of OSEP intervention would take place. …To enable the promise of the IDEA to be fulfilled by true implementation of its requirements, OSEP has to put that last piece of the monitoring system in place and use its enforcement authority in accord with the provisions of the system we have laid out or in accord with another system that's subjective and that people understand clearly. …I urge the task force to recommend the adoption by OSEP of the focus monitoring system that includes a database examination of priorities and enforcement to ensure implementation of those priorities.

Dr. Batya Elbaum, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> A monitoring system needs to focus its investigations on those districts where outcomes are poorest and, within districts, the state's investigations need to focus on areas of performance and compliance that are highly-prophesized to have the strongest relation to the outcome under study.

Lawrence Gloeckler, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> ...We must be allowed ...to target our resources and our energy where the problem exists, and not continue to treat everything as if it's a systemic statewide problem.
>
> ...We look at our monitoring not by cyclical checklists of regulations. Our monitoring is about looking at the data, what we think is important, achievement, classification, dropout [rates].
>
> ...And then, we have others that need focused reviews, where LRE has been a problem forever and ever and hasn't gotten resolved; where achievement has been a problem and hasn't gotten resolved; where dropouts are a problem and hasn't gotten resolved. Rather than looking and trying to fix everything all at once, let's deal with the critical issues and move on from there.

Jim Comstock-Galagan, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> …The historic monitoring systems in this country have been process based and haven't really looked at progress and outcomes for students. It's time to move from process forms of monitoring to what I consider to be real substantive focused monitoring on issues that count, and that is student progress and outcomes. Districts know that, once the state Department leaves, they're not coming back for five to seven years. That's …a free pass. Focused monitoring says we look at data every year. We track every district's data on key indicators every year. And where you're doing great, we compliment, commend you, we triumph your successes, we give you publicity. And where you're not doing well, we may be in your district every year for five years. But it's fundamentally about how are districts performing, and let's recognize where districts need help, and let's recognize where districts can help others. …We believe in what's known as a focused monitoring system, where you focus your resources:… first …information and data analysis and use …monitoring efforts should be focused based upon data …second should be what's called validation visits …incorporate …validating people's data just so there's no fudging …Third, focused compliance monitoring. …And then, enforcement. I think there should be graduated sanctions. I would never propose terminating some administrator's certification as a matter of first recourse. I would suggest it as a matter of last resort, however, and that it is a matter that is in the course of graduated enforcement options. But enforcement cannot be in a vacuum.

Brian McNulty, testimony from the hearing before the President's Commission on Excellence in Special Education, "Accountability Systems Task Force," Des Moines, IA, March 13, 2002:

> I am a big fan of focused monitoring—we need to look at our data to tell us how well we're doing. …I would supplement focused monitoring with some random selection …just so every state knows they're in that mix, and some cyclical monitoring, meaning over a five-year period of time so that all states would be chosen at some period of time. …National assessment raises red flags for people.

Bill East public comment from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> Speed up the transition of the focused monitoring system that was described to you this morning by Leslie Margolis.

Dr. Donnalee Ammons, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> In focused monitoring, …everyone knows what the problem is; that's why the system is in focus. The role of the focus monitoring team is to try to find the systemic issues that

are causing the focus results. It's then up to the state Department of Education to assist the— help the system develop a corrective action plan that is measurable, doable, and designed to bring about change. In Louisiana, the focus indicators are: Percent of students exiting with a standard or regular high school diploma; Percent of students served in regular setting; Percent of students passing the Language Arts portion of the fourth grade state-wise assessment. In the focus monitoring visit, the visit is based on hypotheses as to why the focus issue is occurring. The hypotheses are developed by reviewing a variety of data, including statistical comparisons of data on disabled and non-disabled students in the system, within the region of the state. What we want to look at is, are those regulations being implemented on a day-to-day basis. Most of all, the teams determine if the programming for students is carried out so as to reasonably confer educational benefit. If the IEP is seen as a map to a destination, then it should be well used.

Dialogue between Dr. Donnalee Ammons, Commissioner Cheryl Rei Takemoto and Dr. Batya Elbaum Commissioner Takemoto: One concern—that low incidence kids will be left out of focused monitoring: Is there a way that you could marry some of the ideas about accountability for individual students with this more targeted monitoring system?

Dr. Ammons: When we go in on a focused monitoring visit, we are still looking at compliance issues, but compliance from the standpoint of how that focus indicator keyed us into it. If we see that services are not being provided in a setting—or in a system for certain students, then we begin to look at, are they not providing services that are meaningful for all students.

Dr. Elbaum: One is to have a component of the random monitoring be specifically targeted to certain groups.

Question 4: To what extent does local capacity building need to occur for effective monitoring and enforcement of IDEA to be assured? How is local capacity building designed, implemented, and achieved?

Summary—Infrastructure and indicators, both recommendations for a stronger capacity to monitor the progress or a local system.

U.S. Commission on Civil Rights, Recommendations for the Reauthorization of IDEA, May 2002:

When states do not have adequate infrastructures for implementing IDEA, achieving compliance is difficult. Therefore, federal enforcement efforts should help states establish infrastructures and specific requirements for compliance. Working in collaboration, the Federal Government and states should develop timelines for building the infrastructure needed to conform to the established guidelines. Local teachers should have a clear role in the monitoring system and the development of compliance standards. Finally, OSEP should provide more technical assistance to states struggling with compliance and identify best practice models for replication.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

> Strong leadership, staff development, and resources are the foundation of local capacity building. To build local capacity, effective research-based practices must be identified and states must have the resources to promote the replication of such practices and provide technical assistance to parents, school district personnel, and special education programs. IDEA needs to enhance federal and state resources to support local capacity building. (See Funding question 3#)

Issue 2. Funding

They used my funding to help buy new football jerseys and kept telling me they didn't have a laptop available for me to use. Anonymous Student Comment

A common theme of full funding has been resonating across the country for some time.

Assistant Secretary Robert Pasternack testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

The Federal Government should honor its commitment to fund 40 percent of the cost for programs and services mandated by IDEA. However—without basic revisions to key provisions of IDEA, our efforts to better serve all students will continue to be severely hampered.

Kimberly Ann Brusatori, Parent, public comment from hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

> The fact that a school district is faced with funding shortfalls and has to deliver special education to so many with so few dollars is, Governor and fellow Committee members, in my opinion where your and my trouble lies. It's not in IDEA as it's written, but in the lack of full funding that Congress has determined over the last 28 years not to do. How can anyone expect something to work if the money is not given that is necessary in order for it to succeed? You and I both know that it can't and it won't. I ask this Commission to do the only thing that will make IDEA work as it was initially meant to, fund it to at least the 40 percent that was recently approved.

Dr. Kim Goodrich Ratcliffe, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> It is imperative that the IDEA is fully funded.

Bob Vaadeland, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> ... there should be an increase in federal support to meet the mandates of the federal law.

Robert Runkel, testimony before Senate Committee on Health, Education, Labor and Pensions Committee, March 21, 2002:

> I cannot overstate the need for increased federal funding for the IDEA.

Dr. John Lawrence, testimony at the hearing on "Special Education Finance at the Federal, State and Local Levels," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, April 18, 2002:

> Bring the federal share to 40 percent as soon as possible. We think that means six years of $2.45 billion dollar increases. This would bring the federal share to an estimated $3,650 in FY 2008.

Dr. Sally Arthur, from the hearing on "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 8, 2002:

> Full funding of IDEA would benefit all students by providing relief from local budgets stretched thin by skyrocketing costs.

Dr. Richard Schoonover, testimony from the hearing on "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 8, 2002:

> We would encourage the full funding of IDEA.

Dennis Dykstra, public comment from the hearing before the President's Commission on Excellence in Special Education, "Accountability Systems Task Force," Des Moines, IA, March 13, 2002:

> Integral to any dialogue on accountability systems is a discussion on adequate funding for special education services.

U.S. Commission on Civil Rights, Recommendations for the Reauthorization of IDEA, May 2002:

IDEA should be fully funded immediately.

Dr. Thomas Hehir, testimony before House Education and the Workforce Hearing, October 4, 2001:

Fully fund IDEA.

David W. Peterson, NCD Request for Public Comment, April 5, 2002:

IDEA must be fully funded at the 40 percent level.

Elizabeth Brant, Parent, NCD Request for Public Comment, April 10, 2002:

Fully funding IDEA may help provide states with the ability to hire more people to provide services. But in truth, as long as regulations stay the same, the states do not feel it necessary to change the way services are provided.

Beth Foley, public comment from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

To address the significant increases in the cost of providing a free and appropriate public education, we need to get up to the 40 percent for IDEA for Part B programs, as well as including Section 619, the preschool and including Part C, early intervention and Part D, discretionary programs.

Dr. John Lawrence, testimony at the hearing on "Special Education Finance at the Federal, State and Local Levels," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, April 18, 2002:

Bring the federal share to 40 percent as soon as possible.

Tom DiPaioli, public comment from hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

We favor the proposals to have the full 40 percent of excess cost funding reinstated or to be instated.

Barbara J. Ebenstein, NCD Request for Comment, May 31, 2002:

Congress must fund 40 percent of special education as promised so long ago. The lack of sufficient federal IDEA funds generates resentment and discrimination against children with disabilities in their public schools. Any new funding must be linked to state/local school districts' compliance with and enforcement of IDEA statutory requirements. Anything else will continue to fuel noncompliance.

If full funding is to be accomplished, Congress must decide if it is to be mandatory or subject to the annual appropriation process. Two comments weigh in against mandatory funding. This position is countered by the amendment sponsored by Senators Harkin and Hagel last year in the No Child Left Behind legislation establishing mandatory full funding.

Chairman John Boehner, House Committee on Education and the Workforce Fact Sheet, Fact Sheet, "IDEA Must Be Fully Funded, But First It Must Be Fixed," April 6, 2000:

> Making IDEA a mandatory spending program will make it very difficult to enact much needed reforms to its current structure. Once the program is mandatory, any changes to the program must be scored. If these changes cost money, then an offset must be found to pay for the changes. Offsets are typically difficult to find. … If …costs are much higher than twice the costs of education for non-disabled students … the Federal Government is locked into funding the program at 40 percent of the national average per pupil expenditure, … revising it is extremely difficult [and] … could prevent IDEA from receiving substantial funding increases.

Lisa Graham Keegan, Education Leaders Council; William J. Bennett, Empower America; Chester E. Finn, Jr., Thomas B. Fordham Foundation:

> Nor do we believe making the federal contribution an entitlement would make the program itself any more accountable or effective. …We need to be able to monitor its effectiveness through the appropriations process (among other accountability mechanisms), rather than allowing it to automatically continue to sop up funds.

Question 1. What, if any, changes should be considered in federal special education funding formulas?

I realize that school systems don't have enough money. However, I can't imagine how much money is wasted on districts trying to somehow defend their failure to comply with the law rather than just providing the service. A Parent Named Ann, May 14, 2002

Summary: Integrated funding, that is, the utilization of IDEA funds in general education classrooms, has been an issue for years, with advocates for student rights strongly opposing earmarking any IDEA money for use outside of special education. It was clear that administrators strongly favor such changes in IDEA from the strength of their recommendation, but this position was not reinforced by parents and other advocates. A myriad of other recommendations also surfaced—weighted or differential payments based on severity of the disability; elimination of funding supporting segregation; examination of costs versus expenditures as the funding formula base; creation of federal safety nets for cost overruns; addition of more administrative allowances; coordination of funding with other federal programs with IDEA responsibilities; reduction of state maintenance of effort requirements; creation of a state match; creation of a cap on Part B expenditures and attorneys fees; and elimination of disability categories.

Dr. Irving Lebovics, public comment before President's Commission on Excellence in Special Education, Finance Committee Task Force, Los Angeles, CA, March 21, 2002:

> Our parents have realized that, if they enroll their child in a private school, there are no services available and, therefore, have opted not to go for IEPs; there was no reason to do that. Therefore, we find that we have significantly under counted under this formula. And, going back to the old or the way I—summations of total students in public versus private, or some other child-find method that properly identifies the children … Some other formula which would equitably give that proportion of federal funds to the private school student would be in order.

Differential funding was examined to create a safety net for states and localities and/or to cover extra costs of students with severe disabilities—

Paul Goldfinger, testimony from the hearing on "Special Education Finance at the Federal, State, and Local Levels" before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, April 18, 2002:

> Might there be some caps imposed on special education? One form of a cap would be on total costs: for example, a cap that would limit a district's obligation in terms of total costs for special education programs to some percentage—say, 15 percent of a school district's budget. … Alternatively, a cap could be placed on the annual cost of services for one pupil. Yet another approach would be a federal extraordinary cost pool. As an example of how this would work, suppose that $40,000 is determined to be a very high cost of a particular disability. If a placement costs more than that, federal aid would pay for 50 percent (or some other percentage) of the costs in excess. … One of the things that I think is very important is to recompute the 40 percent level. The original … was a study from around 1970 that identified that the cost for the average special education pupil was about 100 percent more than for a general education pupil. …there is a need for greater flexibility in spending those new dollars with the local revenue.

Dialogue between Commissioner Jay Chambers and Bill Freund, from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> *Dr. Chambers:* From a funding perspective, … what should the federal role [be] in funding Special Education, or IDEA? How would we structure that?
>
> *Mr. Freund:* Well, it occurred to me that you're facing a large problem if you're trying to figure how to lay out federal funds and you're trying to use a 40-percent number; what do you base … your reimbursement rate on? Can you come up with cost or expenditures? I think that, ultimately, you end up having to use expenditures. … The problem is that I don't think that you know what excess [expenditures] are, because not all state accounting systems are the same. And that is why I said to use some sort of a national average because, otherwise, … suppose … somebody is giving you a full cost number as opposed to an excess cost number; if you're using costs then you are rewarding the state that gave you that kind of number for allocation purposes. I think, in the end, you have to do the kind of thing that we do when we do budgets, which is to generalize, hang your hat on something, and then, in our case, we

established the Safety Net so that in case that it doesn't work properly for everybody, there is a safety valve.

Dialogue between Deputy Executive Director Troy Justesen and Bill Freund, at the hearing before the President's Commission on Excellence in Special Education, Finance Task Force, Los Angeles, CA, March 21, 2002:

> *Mr. Justesen*: Do you believe … it should be the role of the Federal Government to have a safety net, then … for kids with the most severe disabilities?
>
> *Mr. Freund*: I don't think that it's an absolute necessity. In our state, we do have a federally-funded Safety Net for high-cost students. I think that you could make provision for that for states, you know, within your federal funds allocation; I just suggest that that's what they do.

Dr. John Lawrence, testimony before House Subcommittee on Education Reform, Washington, DC, April 18, 2002:

> The issues of high cost, low incidence disabilities needs to be addressed, by either creating a separate funding stream or dedicating a portion of the state 25 percent set aside to the high cost, low incidence students. …

U.S. Commission on Civil Rights, Recommendations on the Reauthorization of IDEA, May 2002:

A federal safety net should be established to help states with small populations and school districts faced with children who require significant resources. …Adequate resources must be provided for state and federal monitoring and enforcement programs, including increased funding for the Department of Education's (DOED) Office of Special Education Programs (OSEP).

Dr. Julie Berry Cullen, testimony from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> We start by recognizing there really are two programs within special education. There's one part of the program, which addresses severely disabled students that are not subject to these same sorts of moral hazard. There's the second program … where moral hazard is really important. What that implies from a funding perspective [is that] one system of reimbursement is probably not appropriate for both of these programs. …I think it is reasonable policy to fully fund [the severely disabled program] either at federal or state level in order to insure localities against the risk of having high costs for extremely disabled students. …The reason is that moral hazard is not a big issue on the classification side, [and]

these students will be identified in the same way regardless of where they live, so it reflects differences in incidences of disability regardless of location… For the mildly disabled, fully funding is not an appropriate option because moral hazard is so important in terms of classification. So there, if we knew a great deal about costs, knew a great deal about appropriate interventions, then we might be able to implement a system like a pupil weighting system that basis the ability of a district receives on the diagnosis of a student, but I think we probably aren't there label wise. …The danger which I highlighted before with prospective payment systems is we worry it may return us to a system where students are not receiving adequate services, and so what I would recommend, if you move towards prospective payment to combine it with some system of accountability.

Dialogue between Dr.Eric Hasushek and Assistant Secretary Pasternack at the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

... Dr. Hasushek: …What I'm advocating on the high-cost side is that the Federal Government could actually pay for some of -- whatever mode it chooses for various kinds of high-cost disabilities, wherever they reside and they would go to the individual school districts. And it's not based upon any particular number proportion or anything like that; it's based upon … paying off when the high-risk event happens. ...*Dr. Pasternack:* I think there are a lot of people in the country who would agree that it doesn't cost the same to educate all kids with disabilities, yet we have a federal finance system that provides the same amount of money for all kids with disabilities, so I think your comments are particularly timely. Who are severe? Those disabilities that are evident, which no one would debate whether a disability exists or doesn't exist and that may evolve with assessment, with knowledge, with medical practice, but those cases where there would be no debate about whether a student was disabled or not would be the cases that I would count as being objective, and not subject to the same level of moral hazard.

Barbara Ebenstein, NCD Request for Comment, May 31, 2002:

Congress should permit states to offer financial incentives to schools that develop day and residential special education programs for children with complex disabilities and for severely emotionally disturbed children who display high-risk behaviors.

A Parent Named Ann, May 14, 2002, NCD Request for Public Comment, May 14, 2002:

I would like to see reported somewhere is how much districts spend on special education—not in general terms, but itemize by service. For example, costs of occupational therapy, speech, etc. with administrative costs and fees paid to lawyers as well.

Administrators strongly recommend flexibility to use special education funding in the general education classroom; advocates are of a different opinion—

Steve Johnson, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> Allowing us to use some of the federal funds for some early-intervention type programs is important. In summary, provide more money from the federal and/or state level to relieve the local burden.

Marca Bristo, Chair, National Council on Disability, testimony before House Government Reform Committee, February 28, 2002:

> NCD also has deep concerns regarding proposals pertaining to (1) private school voucher plans and/or charter school options; and (2) increased flexibility for states in relation to federal IDEA requirements. Such proposals have the potential of seriously undermining the education and civil rights of children with disabilities if they are unable to gain the provision of IDEA services and supports to which they are entitled by federal law. Information from around the country (e.g., Massachusetts) indicates that charter schools too often provide unlimited freedom from critical special education requirements. Questions about the constitutionality and effectiveness of vouchers for student with disabilities are also beginning to surface around the country (e.g., Florida). Any educational "reforms" or "innovations" that involve IDEA must first safeguard against exclusion of students with disabilities from services and/or supports, abridgements of student and family rights and responsibilities under IDEA, and ensure that their educational needs are timely met. Until these standards or guidelines are met, state and/or local school districts should only be allowed to have 'flexibility' with non-federal education funds, regardless of which type of reform or innovation they want to try. It is imperative that NCD, children and youth with disabilities, their families, their advocates all be afforded an opportunity to provide their input as proposals are developed and raised to Congress' attention.

Barbara Ebenstein, NCD Request for Public Comment, May 31, 2002:

> Funds should not be used for prevention strategies to reduce the number of referrals to special education. This will only move much needed and long sought federal special education funds out of special education population. Essentially, the Federal Government would be funding Section 504 of the Rehabilitation Act rather than IDEA.

Daniel Reschly, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> In many places those processes have been combined such that, especially in small school attendance centers, Title I and special education cooperate fully. And I think the panel would argue that we need greater integration of special and general education along those lines. Moreover, I think special education personnel, especially related services personnel, have to be available to general educators to prevent the development of disabilities or the required recognition of disabilities through more effective interventions. And that's especially true on the behavioral side.

Barbara Raimondo, NCD Request for Comment, May 29, 2002:

> Special education funding formulas should truly be "placement neutral."

David W. Peterson, NCD Request for Public Comment, April 5, 2002:

> Innovation and flexible use of resources must be encouraged as long as local districts can demonstrate full compliance with IDEA. Innovations must be focused on research based interventions, prevention and early intervention with students.

Dr. Carol Topinka, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> Remove fiscal requirements and incentives for qualifying and placing students in separate programs by merging funds. I think ESEA is beginning to talk about that movement of some amounts of dollars between Titles, but I don't believe that's adequate. You start out with separate programs and separate funding streams, that's what you end up with in the schools at the practitioner level. …And then we need to develop fiscal policies and funding mechanisms that adequately fund those children with significant cognitive and sensory impairments.

Dr. Judy Elliot, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> …I think that, if there's any blending … of funds, it really needs to be based on outcomes and indicators about what you're using it for so that there is a valuation of the use of funds accordingly.

Dr. Richard Schoonover, testimony from the hearing on "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 8, 2002:

> The Individuals with Disabilities Education Act (IDEA) should encourage the integration of IDEA, Title 1, Comprehensive School Reform, state special education funds, and local funds so that programs can be innovative, efficient, and cost effective. .... Providing excellent innovative services to students with disabilities requires the full partnership of all levels of government and the flexibility to use funds to address the specific needs of each community.

Dialogue between Assistant Secretary Robert Pasternack and Dr. Julie Berry Cullen at the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> *Dr. Pasternack*: Would you favor giving the states the ability to use more of the IDEA money for things other than providing special education and related services to students with disabilities?
>
> ...*Dr. Cullen*: About half of the states, actually 35 of the states do not tie the receipt of special education funds to having to expend those in special education, so it's a smaller issue, but it's currently a smaller amount of funding. ...I would be in favor of a movement that addresses students at need and at risk more generally and places less of an emphasis in identifying who is and who is not disabled.

Randall Moody, public comment from hearing before President's Commission on Excellence in Special Education, Nashville, TN, April 18, 2002:

> The National Coalition for Public Education urges this commission to reject any efforts to fund special education and services for children with disabilities through vouchers or other similar mechanisms.

Dr. Thomas Parrish, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> ...We need to stop spending money in ways that promote segregation. Although some children will need more restrictive services during part of their school experience, we know that socialization is a vital part of the education of all children. Far too many children are receiving educational services in isolated settings because ways in which we allocate funds for these services encourages this segregation.
>
> ...I'm not sure I agree [with] the notion of federal funding being targeted for high-cost for so-called severe students. I would like to see substantially increased federal support for

children with special needs. However, I would be concerned if considerable new funds were restricted to add Special Education spending without the flexibility to use some of these funds on other types of interventions for children. If these funds were to be targeted, in my view, rather than directing them to cover the costs of the nation's most severe, or highest-cost children, I would urge consideration allowing at least some of these dollars to be spent on better early intervention and alternative intervention services.

How can special education funding be used with other related sources of funds to cover the wide range of student needs?

Encouraging interagency collaboration—

Lawrence Gloeckler, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> There is substantial research that says that health and mental health services in schools [have] a dramatic effect on key performance indicators. We have to resolve the age-old disputes that are allowed still by federal statutory provisions so that we can quickly and easily have program collaboration and pooled funding to get those services into our schools where the need is. Prevention and intervention have to be available to everyone that needs them when they need them.

Beth Foley, public comment from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> Finally, we'd like to talk about providing funding to support a coordinated services model for students with disabilities including other programs that have a federal obligation to provide educational and noneducational services.

Cathy Healy, testimony from hearing before President's Commission on Excellence in Special Education, Washington, DC, April 30, 2002:

> Provide funding to demonstrate best practice models of educating students with disabilities in foster care.... Strengthen interagency collaboration with child-welfare partnering agencies.

Dr. Brenda Scheuermann, public comment from hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

> One of the recommendations that we [CCBD] urge the Commissioners to consider is, find ways to improve interagency collaboration in the provision of services to children at this tertiary or Level 3 level [i.e. children who need services and supports outside of IDEA).

Dr. Mark Batshaw, testimony before President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> There has to be an improved interchange between the school and the HMOs, the other insurance companies, to decide who is going to pay for what and whether you can do things together. Right now you'll have, for example, physical therapists at school and private physical therapists in the home paid for by two different mechanisms working on two completely different things and not talking to each other instead of having synergy between them… There needs to be improved funding of adaptive equipment that is going to be necessary for the child's ability to learn. If they're not in an adaptive wheelchair, for example, with a child with cerebral palsy that allows them to focus on the teacher, to be able to respond in class, they're not going to learn effectively, and yet there isn't adequate funding for that.

Robert Runkel, testimony before Senate Health, Education, Labor and Pensions Committee, March 21, 2002:

> In addition to changes in IDEA, it is important for Congress to address corresponding changes in the Medicaid program. CMS should be required to work with the Department of Education on policies and procedures that will enable school districts to be reimbursed for services more consistent with a federal, state and local partnership.

Bob Vaadeland, testimony before Senate Health, Education, Labor and Pensions Committee, March 21, 2002:

> As it presently stands, school districts are the payor of last resort, meaning that the present Act allows for an unequal sharing of responsibility when it comes to service provision. A … School Districts are obligated to provide services, even if it is believed that they don't have the dollars to pay for them. I believe this premise should hold true for all agencies involved in Interagency Collaborative Agreements. As a collaborative group, agencies should collectively become the payers of last resort.

Dr. Kim Goodrich Ratcliffe, testimony before Senate Health, Education, Labor and Pensions Committee, March 21, 2002:

> When money runs out in the budgets of agencies such as the Department of Mental Health and Division of Family Services, services are terminated. … The concept of collaboration needs to be replaced with mandated services for children and shared partnerships with schools for the benefit of children. Designate additional social service agencies … as zero reject agencies to act in partnership with public schools on behalf of children.

There were numerous recommendations on how to distribute the funding within the State—

Barbara Gantwerk, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of the Office of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> [We need] additional dollars to support the increased administrative activities at the state level, and of course additional funds to support the costs at the local level.

Beth Foley, public comment from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> An important piece of this funding is to simplify the formula for distribution of state funds, providing a breakdown of 80 percent flow-through to the LEAs, the local education agencies, 5 percent for state administrative expenditures, and up to 15 percent for monitoring, technical assistance, program development, and other support programs. ...providing funding to support a coordinated services model for students with disabilities including other programs that have a federal obligation to provide educational and non-educational services.

Paul Goldfinger, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> ...With ...full funding of the 40-percent level, I think there's a need for greater flexibility. Here in California many school districts have backfilled the shortfall in federal dollars with the local revenue; that's the encroachment that I'm talking about, $1.3 billion. And, for the Federal Government to say, "okay, I didn't fund what I was supposed to fund, I'm going to give you the dollars now but the rules are only 20 percent of the new dollars can be used to offset local revenue." That implies that 80 percent of the new dollars must be used ...to augment funding.

Robert Runkel, testimony before Senate Committee on Health, Education, Labor and Pensions Committee, March 21, 2002:

> ...In my state we have found that the current funding formula, based on census and poverty, is an effective means for determining allocations of federal dollars to SEAs. However, more flexibility is needed by states in their distribution to local districts. Allow state education agencies to keep up to 15 percent of a state's Part B funds to provide support and technical assistance to local education agencies and to conduct monitoring activities.... Allow SEAs to keep up to an additional 5 percent of a state's Part B funds for administrative activities. At the very least, increase the minimum amount of funding for small states and federal jurisdictions to enable them to support their administrative services to LEAs.

> ...Provide flexibility in maintenance of fiscal effort similar to the Hagel and Harkin amendment to the IDEA that was previously proposed. The maintenance of fiscal effort provision in current law limits the ability of federal funding increases to rebalance the relative state, local, and federal partnerships in covering the costs of special education. ... Montana educators feel strongly that this 20 percent limitation should be changed in order to provide more relief from the restrictions imposed by the maintenance of fiscal effort.

Brian McNulty, testimony from the hearing before the President's Commission on Excellence in Special Education, "Accountability Systems Task Force," Des Moines, IA, March 13, 2002:

> ... If there were significant increases in IDEA we do need to look at the maintenance of effort and supplanting issues. [Administrators] would be very willing to hold themselves and school districts responsible to using those state and local revenues for prevention or for intervention such that we could serve kids prior to their entry into special education. and that might be a nice trade-off in terms of how we look at preventative services for kids. ... Performance based alternate assessments are incredibly expensive for states and therefore, very few states are using [them] ... states would welcome help in terms of resources.

Dr. John Lawrence, testimony before House Subcommittee on Education Reform, Washington, DC, April 18, 2002:

> ... Strengthen the state maintenance of effort to insure that all partners contribute appropriately .... Enforcing the state maintenance of effort provisions will also insure that the increase in federal funding will result in a net add to school funding and not simply an opportunity for states to shrug more costs to local taxpayers.

David W. Peterson, NCD Request for Public Comment, April 5, 2002:

> The 20 percent of IDEA funds that school districts can use to support current educational costs should be increased.

Steve Johnson, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> Increased Special Ed funding is needed to relieve the local burden. And the maintenance-of-effort rules, I believe, must also be changed in conjunction with this increase in funding. ... In order to reverse that disproportionate increase that we have experienced at the local level, I am recommending that the maintenance-of-effort should be changed to allow us to decrease 100 percent our local share by the amount that we receive from the—the increase we receive in federal contributions bring all other state and federal resources to the table to help share costs for related services.

Dennis Dykstra, public comment from the hearing before the President's Commission on Excellence in Special Education, "Accountability Systems Task Force," Des Moines, IA, March 13, 2002:

> Congress needs to modify the maintenance of effort and treat as local provision as large IDEA annual increases continue to be appropriate.

Dialogue between Dr. Alice Parker, Barbara Gantwerk and C. Todd Jones at the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of the Office of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> *Dr. Parker*: I was hoping that you all would recommend to Congress that there be a formula that requires a certain federal dollar percentage stay at the state level for administration.
>
> *Dr. Jones*: Should the state be required to put up money too?
>
> *Dr. Parker*: The match. It would get to the same end point, yes. I could live with that easily.
>
> *Ms. Gantwerk*: I think many of the state activities that we're engaged in are a result of the federal requirements, and as such, it would be helpful to provide the funds. Additionally, the state is providing a tremendous amount of funds to the local districts, and as they see it, a lot of that is the result of the federal requirements as well. And since the state is providing the greatest share of the funds totally, I'm not sure it's such an issue.

Tom DiPaioli, public comment from hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> We were hoping for some language that would allow us to have sufficient funds at the state level to be able to administer the programs and to provide technical assistance to the District.

Dialogue between William Dussault and Commissioner Jay Chambers at the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> *Mr. Dussault*: Get rid of the categories and stop having the money follow the category.
>
> *Dr. Chambers*: In thinking about your comments regarding the categories, I'd be curious as to your perspectives on what the implications are for funding of special education, the type of formulas that are existent within the states and also how we think.
> *Mr. Dussault*: Once you take away funding by category, what you then do is remove the incentive to place by category and to identify by category, especially in funding systems where categories are funded differentially. Because, what you do is, you provide an incentive

to place in the highest-funded category. And I've always sort of naively suggested creating a funding system based on the IEPs. We have the technology now to computerize IEPs and, if they aren't, they ought to be. So why aren't we looking at cost centers based upon the actual program requirements of the children instead of categorical or averaged or incidence-rated formulas? Why don't we look at the real data and fund based on the real data?

Eytan Kobre, public comment from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

Base IDEA funding on the ratio of total non-public school students to public school students, since the incidence of disability is likely the same for both groups.

Rabbi Abramchik, public comment from the hearing before the President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

My proposal is to give the entitlement to every nonpublic school student with special needs on par with public school students. The current method of federal allocations of money does not seem to come down to the states and to the local public school system in Denver. The formula should be set up in such a way that both public and nonpublic schools are given the same amount of grant money proportionate to the number of students.

Paul Goldfinger, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

Put a cap on reimbursement for private attorneys' fees, again. …States can get a waiver of the "supplement and not supplant" standard during times of fiscal crisis; why can't school districts apply for that?

Dr. W. Douglas Tynan, from the hearing on "Rethinking Special Education: How to Reform the Individuals with Disabilities Education Act," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 2, 2002:

Attach funding to students identified as in need of special education through the use of vouchers for both evaluation and education. Parents could use the voucher to pay for both the evaluation process and the specialized educational experience of their choice. This could be done either within, or independent of, a broader school voucher program.

Larry Gloeckler testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

Resources must be targeted to areas of need based on key indicators.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

> New federal funding should be targeted to high need schools to improve student outcomes and to support the replication or research-based effective practices.

Question 2. Is the current distribution of the total Part D appropriation appropriate?

Summary—There are continual shortages of trained special education personnel training and other infrastructure development systems. There is support for the recommendation of indexing Part D funding toPart B, especially to increases in Part B appropriations. A number or comments touched on the funding issue; some made compelling arguments for strong personnel preparation and other infrastructure programs that presume increased funding.

Cassandra Archee, public comment from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> When we look at the issues around the reauthorization of Part D, we are very concerned … about it being fully funded.

Dr. Stan F. Shaw, testimony from Senate Committee on Health, Education, Labor and Pensions, June 6, 2002:

> I believe at this point, IDEA needs very little revision in its mandates but significant upgrading of the preparation of personnel who are critical to its implementation. It is evident that IDEA has succeeded in assuring access for students with disabilities. We now need skilled personnel to provide effective instruction.
>
> … It is no exaggeration to state that there is a severe and chronic shortage of qualified personnel to serve students in the schools:
>
> - 98 percent of the nations school districts report special education teacher shortages and shortages are most sorely felt in poor and urban schools;
> - a 1998 survey completed by the American Federation of Teachers shows that special education is the nation's highest shortage area in the 200 largest cities;
> - in data collected for the 23rd Annual Report to Congress … a shortage of 39,140 teachers resulting in approximately 618,412 students not served by qualified personnel.
>
> …In addition, our capacity to prepare teachers has been undermined by a shortage of college and university special education teacher educators:
>
> - the Council for Exceptional Children predicts that the U.S. will need over 200,000 new special educators by 2005;

- 30 percent of special education faculty searches do not get filled each year often resulting in lost positions;
- 30 percent of special education faculty searches do not get filled each year often resulting in lost positions;
- if every college and university facility position in special education were filled, about 3,000 more special education teachers could be trained annually to serve about 48,000 K-12 students a year.

...Focus reauthorization of IDEA on enhancing personnel preparation so that we have professionals who are trained to effectively implement the mandates of IDEA and foster productive outcomes for students with disabilities.

...Provide resources for states and institutions of higher education to raise standards and create incentives for attracting individuals to personnel preparation programs.

...Index Part D funding to Part B so that it will be 10 percent of Part B. This funding should be provided to institutions of higher education to address faculty shortages and to foster development and implementation of effective teacher education programs that feature on-going field experiences with reflective seminars, integration of general and special education students, intensive internships and implementation of Professional Development Schools.

Dr. Mary Brownell, testimony from hearing before the President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

Also, Part D funding in terms of constant dollars has been cut in half. Part D funding supports personnel and preparation programs. The capacity to prepare these teachers is well below what it needs to be. In addition, about one-third of faculty—this was mentioned earlier in IHEs —one-third of faculty positions goes unfilled yearly. There's not the capacity to produce teachers, nor is there the capacity to produce the kind of research that we need to make informed decisions.

Deborah Zeigler, public comment, from hearing before President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

CEC recommends and the law requires that resources be dedicated through B, C, D, to address the following priority areas: Priority area number one. Ensure that the nation has the capacity to prepare and maintain a sufficient supply of highly-qualified persons, special ed teachers, service providers, as well as general education teachers to improve results for children and students with disabilities.... Establish a standing commission of research for teachers and parents to provide the necessary cohesive, long-term research to improve teaching and learning conditions and enhance the achievement of children.

Beth Schafner, public comment from hearing before President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> We need to ensure that families are included as key participants in professional development activities, and that is as collaborators, as mentors of educators, and also as learners themselves. It can't be a hierarchical kind of a set up. It needs to be a truly collaborative kind of set up where families are seen and are interacted with and participate and often can be leaders in this approach. ... it's critical that families and educators learn together. It's critical because both belong to the communities they serve, and indeed, for them to be successful, families must be actively inspired leaders and standards-based achievement for all students with no student left behind only occur if there's alignment and a collaborative relationship between schools and families, and when families are recognized by educators as a necessary and substantively involved in school and reform.

Robin Brewer, public comment from hearing before President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> Expand professional development so that three-tiered systems [school wide, classroom and individual) are implemented. Develop plans for professional development that is a requirement. Ensure that all students with emotional and behavioral disorders are taught by fully qualified teachers. Develop programs that train teachers who work with the students with emotional and behavioral disorders, using alternative programs as well as traditional programs, to make sure they are fully certified to a high standard.

Dr. Thomas Bellamy, testimony from hearing before President's Commission on Excellence in Special Education, Denver, CO, March 5, 2002:

> If I may, I want to close with four quick recommendations. The first relates to learning the strategies for earning federal funding. I guess I would suggest it's a waste of money to spend federal funds directly on a professional development program where most of the funding is supported by federal funds. Since the federal funding is such a tiny percent, we need a strategy built into the legislation that assures that the primary purpose is to leverage how the fund is already being spent by universities, districts, and individual teachers and prospective teachers, to leverage how that funding is used. A related issue is that we need to reduce the decline in the investment in professional development with inflation adjustments. It's less than half what it was 20 years ago.
>
> ...My second recommendation is that the Commission look seriously at the kind of partnership models between universities and districts that can result in sustained ongoing improvements in both in-service and preserves, or, in blended models of the two.
>
> ... And third, I recommend that the Commission look very seriously at funding models that stimulate cross-university coalitions in these low-incidence areas. With distance learning and other means of collaboration, it's quite possible to imagine right now a coalition of five or six universities in a region joining together to develop programs in some of these low incidence areas that no university on its own can afford to do. We have a long history of trying to regionalize those programs and what that's typically done is

create a lot of richness in the immediate vicinity of the regional program and not much elsewhere. But with distance learning and some other connections, I think there's some possibilities of some new models to address that.

Rebecca Walk, testimony from hearing before President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> ...Provide grant opportunities for colleges and universities to develop new preservice curricula for colleges and universities which will prepare all teachers to teach a diverse group of learners.
>
> ...Discontinue teacher preparation programs that continue to separate general education and special education;
>
> ... To provide financial incentives to institutions of higher learning programs to attract and train new personnel;
>
> ...Provide funding for staff development for family service providers and preschool teachers.
>
> ...Ensure that all teachers receive quality preservice instruction that enables them to provide research-based instructional activities to a diverse group of learners.

Tom DiPaioli, public comment from hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> Relative to professional development, our hope is to have a little bit more linkage between professional development dollars [and] our state improvement activities.

Barbara Raimondo, NCD Request for Comment, May 29, 2002:

> Part D programs have provided needed research, personnel preparation, technical assistance support and dissemination of information. While all of these areas are important, we wish to emphasize the importance of Part D to train personnel to serve children who are deaf or hard or hearing and their families.

Dr. Thomas M. Skrtic, testimony before President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> We're producing half the number of special education teachers we need a year, given the increasing number of students, given the special education teacher attrition. A big part of the problem is because we're only producing half as many special education faculty member a year to actually carry out that trend. So, what we're recommending is to double both of those and, of course, both of those are funded and supported primarily

through Part D of the IDEA which would require increasing the support in Part D to double the number of special ed teachers we produce, double the number of special ed faculty.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

To address the increasing turnover rates and the continued movement of our most talented and expert individuals, the IDEA must support creative incentives to help attract and train the next generation of personnel and allow IHEs to expand and strengthen their preservice programs in general and special education; provide each state and LEA with a significant pool of noncompetitive monies to provide in-service training and technical assistance for both school personnel and families; allow states to administer Part D funds for pre-service development to ensure that pre-service programs are aligned with state needs and standards; provide increased funding for states comprehensive networks that support state and local programs for students with disabilities; provide financial incentives to IHEs to attract and train new personnel to meet the needs of students with disabilities; and, support research on current and anticipated personnel vacancies and shortages.

... Further we recommend noncompetitive funds to states to support research-based effective instructional practices that maximize student outcomes; research and technical assistance efforts on balanced accountability systems that provide students with disabilities the opportunity to achieve the same high standards as their non-disabled peers; and, provide noncompetitive funds to states to support coordinated service models, including effective models for successful transition of students with disabilities to post-school endeavors.

Dr. Sally Arthur, from the hearing on "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 8, 2002:

Our legislation needs to reflect some of the known methods. Universities have made effective first steps in establishing a strong research base. Fiscal bridges need to be built through IDEA Part D to focus on practice that is supported by research. Those practices can change systems.

Katherine Beh Neas, testimony, "Rethinking Special Education: How to Reform the Individuals with Disabilities Education Act," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 2, 2002:

All IDEA programs, the Part C early intervention program, the Section 619 preschool program, Part B, and the discretionary programs of Part D all must be fully funded. All Part B funds must remain in education. Many of our task force members are advocating for indexing Part D programs at 10 percent of Part B funding.

U.S. Commission on Civil Rights, Recommendation on the Reauthorization of IDEA, May, 2002:

> Programs funded through Part D discretionary funds should receive increases comparable to increases in the Part B state grants. This should include increased funding for teacher recruitment, preparation, and training.

Dr. Philip Burke, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of the Office of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> In the realm of teacher and leadership shortages, as well as in research, every effort must be made to increase the discretionary funding available for these critical programs. As funding for IDEA is increased, it is strongly recommended that concomitant and proportional indexed funding increases be made available in the discretionary budget.

Paul Marchand, public comment from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of the Office of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> So I would strongly encourage you to think about a way to create, through Part B, some mechanism to make Part D much more real.

Dr. Thomas Hehir, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of the Office of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> I believe that one of the things that you'll bump up against is the relatively small commitment to Part D in relationship to the overall enterprise. ...I would suggest greater funding for discretionary programs under IDEA. ...Having a larger base is critical and having predictable funding sources for people who are conducting large-scale research, people who are operating technical assistance agencies, people who are running parent training centers. When asked how do you feel about indexing Part D to all the federal funding for Parts B and C? Answer: I would support that. ...It is very important to have predictable resources than having an annual appropriation. ...Predictable for people who are conducting large scale research, people who are operating TA agencies, people who are running parent training centers.

Dr. Mark Batshaw, testimony from the hearing before the President's Commission on Excellence in Special Education, "Professional Development Task Force," Denver, CO, March 6, 2002:

> We need to reduce the decline in the investment in professional development with inflation adjustments. It's less than half what it was 20 years ago.

Robert Runkel, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> ...Since school improvement activities are necessary in all states, it seems wrong to selectively finance a state's school improvement effort. A stable formula-driven revenue source for all states is necessary to help states meet their obligation and to successfully engage in long-range improvement activities.

Arlene Meyerson, testimony before Senate Committee on Health, Education, Labor and Pensions, June 6, 2002:

> To be fair and to realize the goal of the IDEA, of leveling the playing field between parents and school districts, parents should have assistance available to prepare for and attend IEP meetings. The current funding for Parent Training Information Centers is woefully inadequate to fulfill its role.

Lawrence C. Gloeckler, testimony before Senate Committee on Health, Education, Labor and Pensions, June 6, 2002:

> In the end, the best indicator that a child will receive a quality education is having a well-trained teacher. We have a shortage of qualified special education personnel and we are having difficulty retaining the personnel we have. ... We must seize the opportunity of this reauthorization to address this issue.

Marca Bristo, Chair, National Council on Disability, testimony before House Government Reform Committee, February 28, 2001:

> Teachers are still not receiving adequate training in special education issues. States need to increase the mandated level of college-level teacher training 'special education' course work beyond the all too general 'Introduction to Special Education' undergraduate-level course for all teacher preparation programs. Special and general education practices reflect teacher preparation, just as teacher preparation drives school practices. This symbiotic relationship between practice and preparation means that the implementation of promising practices is quite uneven on a national basis. While many students preparing to be teachers benefit from experience with state-of-the-art practices in their education, far too many still do not have access to the quality of practices and preparatory experiences that should have been created by now. Therefore, outmoded and ineffective practices are reinforced and perpetuated.

Dr. Douglas Fuchs, testimony before hearing of President's Commission on Excellence in Special Education, Nashville, TN, March 2002:

> Contributing to the impact of this research on practice are the close connections among Parts B, C, and D in IDEA. The deliberate alignment of Parts B, C, and D does much to close the gap between research and practice. We urge the commission to support a version of IDEA

that continues to ensure that the research and service components of the law remain together with one informing the other.

Question 3. Should any new federal funding be linked to particular student outcomes? If so, what should those outcomes be and how would this work?

Summary: Among the individuals who addressed the connection between funding and outcomes, there seemed to be unanimity that such a linkage should exist. There was, however, no strong common theme evident about what outcomes should be targeted.

Bill Freund, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> With respect to student outcomes, data linking Special Education expenditures and outcomes —and by outcomes, I mean test results—is not available in our state. It may be possible to generate some high-level information soon, but it may turn out to be counterintuitive and that the data will probably show that, the higher the expenditures, the lower the student outcomes. And, for that reason, linking expenditures and outcomes may not be useful unless other variables are also considered.

Dialogue between Dr. Eric Hanushek, Commissioner Jay Chambers, and Dr. Jack Daray at the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> *Dr. Hanusek:* Pay attention to outcomes and that ought to drive our thinking; that you need information on outcomes in order to make decisions about efficiency of operations of the system; you need information on outcomes in order to provide the right incentives for schools to do well.... Now that, again, is going to take some effort, but it basically says that, for lower-price systems, the first thing to think about is providing block grants—perhaps calculated on the basis of demographics of districts; it puts a little bit of risk on the district if they have more or less but, at the same time, it has great beneficial things, if they can provide good outcomes ....So, secondly, as I said, when you start thinking about outcomes and spending and efficiency of systems, I think it leads you to try, as best you can, to not distort the decision-making of local school districts. ...You want to hold them responsible, reward when they do a good job; you do not want to reward them for things that are unrelated to doing a good job, like getting more kids classified in some category because that changes the expenditure payment. ...You have to have some sort of cost-sharing, ... some way where you might have a set fee that goes with a certain diagnosis. ...Now it's also clear to me that just saying, "We're interested in outcomes and we're going to provide incentives," doesn't get you away from a lot of regulatory issues because, first, it's hard to get incentives right, it's hard to make them so that they work in the way that you want them to and so there is going to be some regulatory environment that stays forever..., in reality. But it's a different climate because it's a regulatory environment that's linked to, also, the performance measurement and making sure that people aren't just being provided what they should be. ...For lower-prices,

they get rewarded for it, they get to take some of this grant and use it for other purposes or even to improve the education of Special Ed kids more. But it's all, then, trying to mobilize the local districts.

... *Dr. Chambers*: So leave it at a block grant and some kind of an insurance program for the federal financing system and let it go at that?

... *Dr. Hanushek*: Well, I think that's part of it, or the Federal Government could, in fact, get more involved in providing performance incentives, too, if it wanted to pick up part of a larger proportion of the total amounts spent on special education. There's nothing magic there other than somebody once wrote 40 percent into a law. I mean, there's nothing magic about what number you choose of how much the Federal Government pays. But it could, in fact, provide some incentive grants or it could provide incentives for, you know, specific outcomes, you know, kids reading or something like that. And that would be fine. And you could probably make that work.

... *Dr. Daray*: I would recommend, be the change agent. That's your chance to be in the role of change agent. So, if you want to get to this money and you want to see these new—then you've got to decide what you want those new things to look like.

Dr. Jay Chambers, testimony from hearing on "Special Education Finance at the Federal, State and Local Levels, House Subcommittee on Education Reform, April 18, 2002:

I think we need to design the funding systems that create the incentives to accomplish what we want to. When ... [we] have gone into states and talked to them about special education funding, the first question we ask is, "what do you want your program to look like?" Not, "what do you want your funding system formula to look like?" We say, "what do you want to accomplish? What are your goals and objectives for this program?" And then, once you have an understanding of what those goals and objectives are for the program, you can then design a funding system to create incentives to implement that program. And I guess I think one of the things that we can do is to connect what our goals and objectives are to the design of the funding system. That might mean increasing the amount of funding or the proportion of special education funding that comes from the Federal Government. How [do] we tie funding increases together. ...How [are] those funds distributed and utilized by the states and what impact we might have, ... in what ways we can tie the distribution of the federal money to the way states design their own funding systems. There are a huge variety of funding formulas and programs out there in the 50 states, everything from full cost reimbursement to percentage equalizing to weighted pupils to census-based programs. And if we have a feeling that one or the other of those kinds of programs is going to create the kind of special ed and general ed program that we think ought to be going on out in the schools, then we need to recommend something that is going to impact the way states distribute funding.

Question 4. Should any new funding be linked to state/local school districts' compliance with, and enforcement of, IDEA statutory requirements? If so, how would this work?

Summary: Sanctions are a necessary part of the monitoring process. This document includes suggestions that the withholding of funds should be a sanction available for noncompliant systems, but it should be a last resort as a guard against punishing the students for the ills of the system.

U.S. Commission on Civil Rights, Recommendation on the Reauthorization of IDEA, May, 2002:

> ...Funding and compliance should not be mutually exclusive, but rather intricately woven with accountability for positive outcomes. Moreover, funding sanctions must not be imposed at the expense of students. The Commission recognizes the difficulties associated with achieving the appropriate balance. Therefore, reauthorization provisions must include adequate resources to support state and federal monitoring and enforcement. For instance, the Federal Government has been criticized by states for monitoring that is neither effective nor timely, causing OSEP reports to be issued too late to be of any relevance. One of the problems is that OSEP is largely understaffed in relation to the magnitude of its mandate.
>
> ...Congress, in the appropriations process, should ensure that OSEP is funded at levels commensurate with its responsibilities.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

> Currently, a state may withhold IDEA funds for noncompliance with IDEA statutory requirements. Additional funds are needed so that technical assistance can be provided as necessary for those districts to come into compliance and improve student results.

Kathleen Boundy, U.S. Commission on Civil Rights, Briefing on the Reauthorization of the Individuals with Disabilities Education Act, April 12, 2002:

> [There could be] incentives for schools that are decreasing their overrepresentation [of minority students in special education], decreasing their suspension rates, their expulsion rates. ...[Given] additional federal funds, ... in order to get that new money, the schools that were in noncompliance ... because of the overrepresentation or disparities in discipline would have to get those numbers down in order to get the new federal monies.

Chairperson Mary Francis Berry, U.S. Civil Rights Commission Briefing on Reauthorization of Individuals with Disabilities Act, Washington, DC, April 12, 2002:

> How about a proposal that relates to how many complaints they have about people being misidentified in some way? ...If there were some kind of sliding scale ... where if you reduce the counts by X amount, you get more money or less money. How about some sliding scale related to ... some measure of Overrepresentation or how hard you were working to reduce the numbers of something like that?

Question 5. Should funds be used for prevention strategies to reduce the number of referrals to special education? If so, how might this work?

Summary—Both in respect to this question and the series of answers in Question 1 tied to integrated or blended funding, there is a strong voice for allowing IDEA funding to be used in general education settings to prevent ultimate placements in special education, especially among students who are at risk of receiving a high incidence disability label and placement. However, as pointed out by one commenter, this would be the equivalent of using IDEA, Part B funds to finance Section 504 programs. Other sources of funds are available and referenced for use in general education settings for students with disabilities or students at risk of being identified with a disability.

Dr. Thomas Parrish, testimony from the hearing before the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> With outcome accountability in mind, we need to allow greater flexibility in the use of funds. If special education is the only game in town, or the best game in town, the remedial services, special education enrollments will continue to grow as a percentage of total enrollments, as they have done every year since the passage of IDEA. I think we need to consider flexibility in the use of funds to provide some services to students prior to referral to special education. We need to direct more money and services to young children. Research consistently shows that we have a great window of opportunity to intervene with children at risk in the early years. And yet our funding patterns show that we are much more likely to spend after failure has occurred.

Jim Comstock-Galagan, from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> We don't need millions of more dollars. We need allocation of resources into regular settings, as we heard this morning. We need to bring resources into regular settings, create small pupil-teacher, pupil-instructor settings, and we can do that with the vast majority of special education resources we have.

Commissioner Jack Fletcher, at the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 26, 2002:

> The recently passed Elementary and Secondary Education Act has a Part B, which is called the Reading First Plan. It's $1 billion. One of the more interesting provisions is that states can keep 20 percent. It's unusual in that SEAs are actually allowed to keep a substantial amount of money to implement a statewide professional development program. And so states could have a substantial amount of money to do professional development of both general education and special education teachers in the area of reading. So I think that part of it, the part of it that involves prevention and early intervention and things of that sort, is on the table now. And we have several states that have good models for this, Texas, Florida's model is coming along. I think we need to make sure we look at what we recommend for special education so it ties upon these provisions.

Rebecca Walk, public comment from the hearing before the President's Commission on Excellence in Special Education, "Professional Development Task Force," Denver, CO, March 6, 2002:

> We know that early identification and interventions are the best methods for reducing the numbers of children who are identified as learning disabled. The IDEA supports these efforts through Part C and 619 funding. Unfortunately, these programs have been consistently flat funded. The shame in this is we know emphatically how critical the first five years are, especially for a child with a disability.

Dr. Julie Barry Cullen, testimony from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> But as a practical matter, the method of funding does affect both how students are classified and the types of services that they receive. Research indicates, "there's definitely room for the [identification] rates to respond to fiscal incentives. … You see a close correlation between changes in disability rates and changes in these relative financial incentives and what the results implied is that if you were to increase the reimbursement from the state by about 10 percent, you'd see a 2 percent increase in the disability rate and that increase is coming where you would expect it to come, it's in the categories where the definitions are more subjective, so it's in speech impairment, learning disability. The way that special education is reimbursed is a very significant determinant of the number of students and the size of these programs and composition of these programs.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

> Congress needs to align the federal funding levels and distribution formulas in the IDEA and the ESEA to promote a unified system of education.

Issue 3. Discipline

All schools should establish and implement research-based, effective programs that prevent school violence. Effective research-based programs include classroom management strategies to help reduce classroom disruption and increase student learning; positive behavior intervention programs addressing emotional, behavioral, and educational needs of students; and professional development to reduce the level of inappropriate disciplinary actions. All school staff must be trained to recognize and respond appropriately to troubled youth, Katherine Beh Neas, Consortium for Citizens with Disabilities.

Question 1: Are the discipline procedures under IDEA clear and understandable?

Summary: While the advocacy community has held fast to the discipline amendment of 1997 as the right and equitable answer to the question of disciplinary treatment of students with disabilities, there appears to be a strong body of evidence in public opinion that the current system is too confusing. The recommendations for the most part are in strong support of simplification. While there are some arguments for eliminating FAPE for students who become disciplinary problems, the bulk of the recommendations are to hold firm to the precepts of the 1997 amendments, specifically protections of students' rights to FAPE, but to make the process an easier one through which to maneuver.

Isaac, Student, Response to NCD Request for Comment from Youth, May 2002:

> The discipline policy of IDEA would only be clearer, if all parents and students who are disabled know about it in the first place.

U.S. Commission on Civil Rights, Report from Hearing on Reauthorization of IDEA, Washington, D.C, May, 2002:

> The 1997 amendments to IDEA require behavior-related needs or disabilities to be addressed as an education matter, in the same manner as other disabilities. Schools are now required to assess each child's behavior and develop positive behavioral interventions. While schools and parents have reported improvements as a result of the amendments, one complaint of the 1997 discipline provisions is that they are too complicated and confusing, and therefore should be reviewed, clarified, and simplified for better implementation.

Assistant Secretary Robert Pasternack, testimony before Senate Health, Education, Labor and Pensions Committee hearing, March 21, 2002:

> As the law has been implemented since the 1997 amendments, it is evident that some of the requirements of the statute and regulations may be too complicated or confusing and need to be reviewed.

Barbara Gantwerk, testimony from the hearing before the President's Commission on Excellence in Special Education, "The Role and Function of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002:

> The discipline section could be simpler while maintaining important principles that schools should be safe for all. Students should not be punished for their disability. Beyond ten days, you get services. The major focus should be on identifying and providing the appropriate program rather than a manifestation determination. Whether it is or it isn't a manifestation, the key issue is what is the right program for this child?

Erin, Student, Response to NCD Request for Comment from Youth with Disabilities, May 2002:

> I don't think the discipline procedures need to be clearer. I think more accommodations need to be provided.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

> The provisions are overly complex and cumbersome and should be streamlined. However, the right of students with disabilities to FAPE during suspensions or removals must be retained. The IDEA should support alternative services through other agencies that may be necessary so that appropriate alternative educational programs are readily available to students.

Robert Runkel, testimony before Senate Health, Education, Labor and Pensions Committee, March 21, 2002:

> Everyone seems to agree that the compromise discipline language included in the IDEA' 97 is too cumbersome and too difficult to follow, let alone enforce properly. The process of disciplining students must be simplified. ... we should afford all students the opportunity to engage in learning activities designed to enable them to progress in school. If this basic principle were followed, perhaps the complexity of the process and the double standard of treatment of students with disabilities could go away.

Ronnie M. Jackson, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> Provisions of IDEA legislation dealing with students' behavior causes confusion and misunderstanding in our schools and communities.

Dr. Sally Arthur, from the hearing on "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," before the Subcommittee on Education Reform, Committee on Education and the Workplace, U.S. House of Representatives, May 8, 2002:

> The current regulations diminish the capacity to follow the principles of PBIS by establishing variable rather than clear guidelines of behavioral expectations to students and parents. Loopholes are available and students can learn to misbehave from the lack of consistency. Further, the possibility of human error is monumental, reducing the ability of campus administrators to ensure compliance to the regulations. Campus administrators are expected to follow a maze of regulations and make decisions in relation to their ability to discipline students for inappropriate behaviors. This maze of regulations has numerous decision points, all potential vehicles for litigation. This inequitable system creates opportunities for exploitation of the system. Further, it assumes that all individuals are capable of understanding and applying these legal complexities

Lisa Graham Keegan, William J. Bennett, Chester J. Finn, Jr. - letter to Chairman Terry Branstad, February 20, 2002:

> Discipline remains one of the most divisive and contentious issues in the special education debate. Unfortunately, previous efforts to clarify when and how special educations students may be disciplined have only served to make it more confusing.

Gene Lenz, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 26, 2002:

> The discipline section of IDEA, both in the statute and the regulation, requires massive simplification, with priority clarification to the differentiation between behavioral concerns requiring instructional interventions versus disciplinary action. We have to make a clear distinction between those kids that need behavior intervention as an instructional issue versus a discipline issue.

Question 2: To what extent is the current IDEA discipline policy properly implemented?

Question 3: What are challenges and obstacles to implementing the IDEA discipline policy?

Question 6: To what extent are state and local school districts not complying with the current IDEA discipline policy? How can this policy be enforced?

Summary: We put these three questions together because they seemed to play off of each other. Parents talk about the lack of effective behavior management strategies in the classroom; suspensions are still control mechanisms of choice in too many schools; proper

implementation of the disciplinary provisions in IDEA seems to still be quite variable. The observations of continued inequity based on race and behavior disorders are also prevalent.

Assistant Secretary Robert Pasternack, testimony before Senate Health, Education, Labor and Pensions Committee hearing, March 21, 2002:

> As we have looked at the issue of discipline, we have learned that appropriate use of these strategies (improved classroom management, effective school-wide models of positive behavior strategies, and the use of functional behavioral assessments models and techniques) has had significant results in reducing discipline problems for the entire school community and keeping students safe.

Daniel Reschly, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> There are well-established programs to develop individual interventions in natural contexts that have a high rate of success.

Barbara Ebenstein, NCD Request for Public Comment, May 31, 2002:

> …The current IDEA discipline policy is not properly implemented in manifestation determinations. Too often, these determinations are really made by one or two district administrators in advance of the meeting. The meeting is then a mere formality. …Legal resources are not available to parents to ensure implementation of the IDEA discipline policy. The timelines are short. They need to be short. But parents cannot locate legal services fast enough or inexpensively enough. Too often, parents must appear *pro se* even when they want representation.

U. S. Commission on Civil Rights, Recommendations on the Reauthorization of IDEA, May 2002:

> One of the key elements of the original IDEA, as conceived in 1975, was the recognition that, for children with behavioral disorders, access to school is meaningless if it does not include programming that addresses behavioral needs. Many schools still fail to appropriately accommodate the behavioral consequences of disability by focusing on controlling students rather than addressing unique social and emotional needs. Behavior that can be attributed to a disability is commonly mischaracterized as misconduct and treated with discipline rather than appropriate services.

U. S. Commission on Civil Rights Recommendations on the Reauthorization of IDEA, May 2002 and Kathleen Boundy, testimony before U.S. Commission on Civil Rights Briefing, April 12, 2002:

Evidence suggests that disciplinary action differs among students in special education, with race/ethnicity being a determining factor in the severity of punishment. According to data released by the Department of Education, in the 1999—2000 academic year, Hispanic, American Indian, and African American students with disabilities were substantially more likely than white students to be suspended, removed by school personnel, or removed by a hearing officer, and were more likely to be given both short- and long-term suspensions.

Kathleen Boundy, testimony before Senate Health, Education, Labor and Pensions Committee Hearing, April 25, 2002:

...African American students with disabilities are more than three times as likely as whites to be given short-term suspensions, and racial disparities are nearly as great for long-term suspensions for both American Indians and African American children who are likely to be removed for more than 10 days.

...Given the data reflecting racial disparity in the use of exclusionary discipline, and the harsh effects of exclusion, we have reason to be concerned especially for those students and parents who are unrepresented (generally due to low income status and/or geographic isolation) and lack access to legal and other expertise to challenge findings of "no manifestation"

...Behavior that is part of disability is still all too commonly, inappropriately characterized as "misconduct" and treated with harsh exclusionary discipline instead of appropriate special education and related services. All too commonly, children are members of racial or ethnic minority groups that are subjected to this unlawful treatment.

...Preliminary research is encouraging. It demonstrated improved outcomes for individual students with behavioral issues when positive behavioral supports and intervention strategies are included in their IEPs. Improvements are also reported among individual schools that have implemented new positive behavioral interventions to address behavior concerns systemically.

...In these explicit instances [possession of a dangerous weapon, and possession, sale or distribution of illegal drugs or a placement that is considered substantially likely to cause injury to self or others] neither the 'no cessation' provisions nor schools' obligation to address behavior as an education issue (nor anything else in IDEA) prevent authorized school personnel from disciplining children with disabilities when appropriate.
...If a school identified and tried unsuccessfully different alternatives for addressing a child's inappropriate behavior before proposing to remove the child from his/her current placement, and the parent was informed and understood, the opportunity might exist for collaborative planning

... This would seem far more conducive to reaching an agreed upon decision than notifying the parent without explanation that the child is being moved and leaving the parent no recourse but to file a complaint … and thereby keep the child in his current placement while the parent tries to figure out what is happening. Data available raises concerns about racial composition of alternative schools and whether or not students placed in alternative schools are really learning what all other students are expected to know and be able to do.

Laura Gardner, Parent, NCD Request for Public Comment, May 19, 2002:

Behavior problems arise when the program is inappropriate. With early intervention, there is plenty of time for schools to intervene to help students before a pattern of disruptive behavior, or worse, violent behavior begins. …Despite evidenced progress in this area, discrimination remains. In ways that skirt the law, schools are effectively excluding our kids. There are disabilities with social deficits … that absolutely must be recognized as a disability. Not to do so, and treat accordingly is discrimination.

…When disability affects behavior, everyone is afraid to go there. "We must hold all students accountable for their behavior" … is like telling a blind person, "We must hold all students accountable if they cannot see" and then promptly doling out some fitting punishment to make this person change his mind and make himself see.

…There were numerous suspensions totaling over 10 days, without services, a gym teacher had sat on my son, an aide had shoved him up against the lockers and the Administrative Assistant had made him stay in a 4 x 4 box, that was supposed to serve as a voluntary study carrel for 2 1/2 hours sobbing with no tissues. A Manifestation Determination unanimously determined that all my son's behaviors were disability related.

...What schools need is to be educated about disabilities, and educated about the current discipline procedures and how to effectively apply them.

Elysa Hyman, public comment from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

… In New York City there were 50,000 suspensions last year. Half of the long-term suspensions, which means suspensions over five days, were of kids with disabilities. Almost 70 percent of those suspensions were of African American students. 98 percent of kids who are getting alternative education services, which means they basically get no instruction for almost a year, are minority students, and I really don't think that, leaving aside the issue of disability discrimination from the juvenile justice prevention perspective and looking at the disproportionate impact on minorities, student cessation should even be considered. There's nothing worse than having at-risk students out of school for months unsupervised.

General Accounting Office Report 01-210 "Student Discipline, the Individuals with Disabilities Education Act," January 2001:

> IDEA provisions do not hinder school officials in disciplining students. Principals generally rated their schools' special-education discipline policies both under IDEA and local policies as having "a positive or neutral effect on schools safety and orderliness." The study acknowledged that a significant majority of school administrators believe the law is effectively working and does not create a "problem" for implementation. 36 percent of the respondent principals reported that they operate under a local policy that requires them to provide education and/or support services to students with disabilities every day of suspension and 87 percent of them considered this local not federal policy to have a positive or neutral effect.

Teresa Peterson, Parent, Letter to Senator Edward Kennedy, April 12, 2002:

> This year IDEA has worked for our son; he is receiving the supports and modifications he needs in the least restrictive environment. I wish administrators and educators would automatically implement the law. Instead we were forced to draw the line and make them do it. What about all the other children who do not have parents who can do that? Here in Texas we had a little boy die recently in a "behavior management" class. An hour after being restrained by his teacher and two aides, he died of suffocation.

Dr. Joseph Wehby, testimony from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> Students with SBD continue to be removed from school settings due to problem behavior more so than any other disability group. …Numerous surveys have shown that teachers, particularly those in general education classrooms, and school administrators lack the training to address severe problem behavior.

Ronnie M. Jackson, testimony before Senate Committee on Health, Education, Labor and Pensions, April 25, 2002:

> Restrictions placed on local school systems concerning the removal of dangerous students and to maintain safe schools. … it erodes the credibility of otherwise outstanding IDEA legislation.

Marisa C. Brown, testimony before Senate Committee on Health, Education, Labor and Pensions, June 6, 2002:

> It has been our experience that schools too often use suspension, both in school and out of school, to discipline students. … it is too frequently used in the absence of more effective strategies, and to simply get rid of the problem rather than solving its root cause.

For my child, suspension was used so often that it actually began to reinforce the very behavior that the teachers were trying to extinguish.

Question 5: Should changes be considered to the current IDEA discipline policy?

Summary—This is "a line in the sand" issue, with many teachers and administrators advocating for a unified system of discipline for all students, while others are adamant that the policy must only be "clarified and simplified," retaining the procedural components crafted in 1997, including no cessation of services. There was a recurring theme recommending equity for students with discipline problems and many statements from both sides of the line that indicate the need for more assistance from OSEP on the implementation, monitoring and enforcement of the discipline provisions of the Act. Parents point out the need for positive approaches in the classroom.

U.S. Commission on Civil Rights, Recommendation on Reauthorization of IDEA, May 2002:

> ...The discipline provisions of the 1997 amendments effectively strike a balance between protecting students and protecting school administrators. They should not be significantly changed, although they should be clarified and simplified. ...It is important that Congress preserve the no cessation provision of the law, which ensures the continuation of educational services to students removed from school for extended periods of time, so that these students most in need of structured education do not fall further behind. ...Appropriate funding should be allocated for the development of behavior management programs that promote school-wide models of positive behavior strategies and assessments.
>
> ...In testimony before the Senate Education Committee, the Assistant Secretary for Special Education stated that DOED's experience with the implementation of discipline provisions has highlighted the need for schools to focus on improved classroom management, school-wide models of positive behavior strategies, and the use of behavioral assessments. The Commission supports this approach to the discipline process and recommends that appropriate funding be allocated to develop behavior management programs that take a holistic approach to discipline. District discipline policies should be proactive, research-based, and school-wide, and promote positive behavioral support. OSEP can play an important role in providing guidance to states and school districts as uniform discipline guidelines are developed.
>
> ...The U.S. Commission encourages DOED to look at state and local programs that allow the placement of students with disciplinary problems in alternative schools. Removing students from an integrated setting may not always be an appropriate response, particularly given the fact that many alternative schools provide less than adequate education. ...Alternative schools only work if there are adequate resources to ensure their proper function. ...DOED should monitor districts that use alternative schools to ensure that they are not in violation of least restrictive environment requirements of the IDEA.

> ...Other models, such as schools within schools, may work without having the effects of complete segregation and should be examined by OSEP for potential replication.

Barbara Ebenstein, NCD Request for Public Comment, May 31, 2002:

> Changes should not be considered to the current IDEA discipline policy. It simply has to be implemented by LEAs and SEAs.

Robin Brewer, public comment from hearing before the President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> Expand professional development so that three-tiered systems are implemented. Develop plans for professional development that is a requirement. Ensure that all students with emotional and behavioral disorders are taught by fully qualified teachers. Develop programs that train teachers who work with the students with emotional and behavioral disorders, using alternative programs as well as traditional programs, to make sure they are fully certified to a high standard.

Barbara Raimondo, NCD Request for Comment, May 29, 2002:

> Cessation of services should not be permitted, but students who are removed from their educational setting should be placed in settings where they have access to appropriate mental health and behavioral support services provided by qualified professionals with specialized training and expertise.

Marisa C. Brown, testimony before Senate Committee on Health, Education, Labor and Pensions, June 6, 2002:

> The only way to ensure maintaining a child's dignity and availability for learning is to implement positive approaches. Language needs to be inserted to ensure that functional behavioral assessments and positive behavioral support plans are addressed for all students as identified in their present level of performance, not only required once students have exhibited a behavior that results in suspension or expulsion.

Dr. George Sugai, Ph.D., testimony before Senate Committee on Health, Education, Labor and Pensions, April 25, 2002:

> ...Policy makers, administrators, educators, and family members must invest in and give high priority to systems and practices that facilitate a "working smarter" approach. ...
>
> ...Like academic skills, appropriate social behaviors and skills must be taught directly and aggressively if meaningful improvements in problem behaviors are to be realized. ...The research literature is clear that a better way of improving the social culture and

academic outcomes in schools is to adopt a sustained, positive, preventive, and instructional approach to school-wide discipline and behavior management. This approach focuses on giving priority to teaching and encouraging positive school-wide behavioral expectations, and increasing school capacity to support sustained use of empirically validated practices.

... A science of ... effective behavioral interventions has existed for over 60 years, yet this knowledge is not overtly considered and applied in many classrooms. ... Establishing and sustaining effective school-wide PBS practices and supports requires more than "one-shot" training seminars, packaged curricula, and administrative mandates. Careful consideration and integration of systems, practices, outcomes, and data are needed.

Sheila Buckley, public comment from hearing before the President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

My kid has done a good job of adjusting because we used the functional behavior assessment. That could eliminate a lot of problems. We need to use the research and the data that's out there and start using the appropriate programs.

Lisa Graham Keegan, William J. Bennett and Chester E. Finn, Jr., letter to Chairman Terry Branstad, February 20, 2002:

The system needs to be fair to the teacher, the special education student and other students in the classroom and the school. It needs a single discipline standard. Youngsters who cannot meet that standard need to do their learning in other classrooms and schools. ...Teachers need the authority to discipline problem students without fear of being hauled before a judge.

American Academy of Child and Adolescent Psychiatry, Written Statement for the Senate Health, Education, Labor, and Pensions Committee on IDEA Enforcement, April 25, 2002:

The AACAP strongly supports the Individuals with Disabilities Education Act provisions for dealing with infractions of school discipline codes. ... IDEA's discipline provisions are working effectively and provide local education agencies with adequate flexibility to address these issues. The AACAP opposes any attempts to amend IDEA to allow school districts to cease educational services to students with disabilities. ... Ceasing educational and other services for students as a means of discipline violates the principle of leaving no child behind.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

The major premise of the IDEA discipline procedures need to be retained, including the requirement for the provisions of FAPE to students with disabilities suspended or removed from school for discipline reasons. We do not support legislation that would

remove a student's right to education services during suspensions or removals. However, current law relating to discipline is unnecessarily complicated and needs to be streamlined.

Ronnie Jackson, testimony before Senate Committee on Health, Education, Labor and Pensions, Committee, April 25, 2002:

> ...It is imperative that a menu of dangerous actions for which no student can exercise immunity be developed. This list would be limited to those circumstances and actions that directly impact overall school safety. At a minimum, it should include: intentional assault on school personnel, repeated and intentional assault of other students; possession and/or distribution of illegal substances on school grounds or at school activities; possession of handguns or other weapons on school campus or at school activities; and, intentionally endangering the safety of school personnel and/or students.
>
> ... School systems must be given authority to deal with intentional misconduct that is not a direct and clear manifestation of a student's disability.

Laura Gardner, Parent, NCD Request for Public Comments, May 19, 2002:

> Changing to uniform discipline policies will not improve functioning in a student with a disability. All it serves to do is relieve the teachers from having to try.

Dr. Joseph Wehby, testimony from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> ...The emerging literature on building PBS plans for students with disabilities clearly points to the need to build larger overall school systems of supports to, (a) ensure that PBS plans are implemented with a high degree of integrity and, (b), to prevent problem behaviors from developing into chronic patterns that will ultimately require specialized services. ...In addition, this literature suggests that FBA and PBS technology should be routinely used with non-identified children to prevent behavioral problems from developing into chronic patterns that may then lead to special education services. ...Increased behavior management training should be provided to general education teachers, special education teachers, school administrators and related service personnel. This training should focus on evidence-based practices that address behavior needs at the whole school and individual child levels.
>
> ...Procedures for incorporating functional behavior assessments within ongoing individualized education plans are needed. What I would be saying is that before I would go towards removing a child for disruptive behavior, I would conduct these sorts of assessments of the behavior, the environment. ...Perhaps one of the greatest challenges in the field is working within school systems that continue to use, advocate, and promote punishment and exclusion strategies in response to behavioral challenges, while the

evidence is clear that these strategies not only failed to reduce challenges, but may in fact increase problems.

Sharon Vaughn, testimony from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> So what I think we can say with confidence is that a lot of the problems that end up identifying students as emotionally disturbed could be prevented, and they could be prevented with solid, appropriate school-wide behavior support, not behavioral discipline—you heard a difference in the word—behavioral support programs.

Teresa Peterson, Parent, Letter to Senator Edward Kennedy, April 12, 2002:

> There is no need for additional laws to hold children with disabilities accountable for guns and weapons. It already does!

Ron Benner, School Psychologist, public comment from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> First, we need to respond early to these behavioral needs so that they have a better chance of positive outcomes. Next, we need to offer continuum of services. These should have multiple steps to allow movement to and from the most restricted programs.

Kathleen Boundy, testimony before hearing on "IDEA: Behavioral Supports in School", Committee on Health, Education, Labor and Pensions, April 25, 2002:

> …The preservation of the no cessation principle is critical …only now that our federal and state framework for education reform has an accountability that is underscored in the IDEA amendments in 1997 are students with disabilities expected to participate meaningfully in the general curriculum to the maximum extent appropriate to meet the performance goals set for all children and to be included in all state and district assessments … their right to stay put and not have their education disrupted is paramount. … An amendment to eliminate the manifestation determination would violate Section 504 and I urge "opposition to such a provision. …I would suggest to you that alternative schools, while perhaps a better option than exclusion, would exacerbate resegregation of public education by race and disability, and it is likely to be an unintended consequences of accountability or the movement to hold schools to high standards, as failing students will be shuttled or referred out the door. …Oppose any amendments to use the right to attend alternative schools as a means to weaken the LRE provision of the Individuals with Disabilities Education Act.
>
> ……We cannot retreat from the intent and new emphasis of the IDEA Amendments of 1997 that opened new vistas to parents and their children with disabilities.

> ...IDEA must be implemented consistently with the zero reject/no cessation principle established in 1975.
>
> ... Persistent efforts to further amend the law to make it easier to exclude children with disabilities are not based on substantiated evidence of need.
>
> ...[T]o retreat from the 'no cessation' provision ... will create a huge loophole for schools seeking not to be held accountable for the education of these more vulnerable children and youth. ... We should be discussing ways to enrich and expand students' educational opportunities to address the long histories of absences and poor quality education they must overcome—not attempting to eliminate their right to any education.
>
> ... If the statute is changed,... expanding school personnel's unilateral authority to remove so-called 'disruptive' students, thereby making it easier to send students with disabilities to alternative education programs or settings where they will not be ensured their right to a free appropriate public education in the least restrictive environment, there is little doubt but that resegregation without accountability for teaching and learning will be the outcome.

Commissioner Christopher Edley, Jr. Civil Rights Commission Briefing: Panel to Explore the Promise and Practice of IDEA, Washington, DC, April 12, 2002:

> To suggest that alternative schools are some silver bullet is simply not the case. We're not providing adequate resources in regular education, much less in this alternative hidden education.

Dr. Maggie McLaughlin, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> I do believe that those pieces of paper are important civil rights, protections for given children. I would in this whole idea of flexibility say we may want to keep the concept of manifestation determination ... not the way, necessarily, that individuals states and school districts have chosen to interpret this because there is a great deal of ownership for this paperwork that rests at the local district. -- but the basic civil rights protections that are associated with some of those provisions in law are not something that we should just automatically say that, because it's burdensome, we're going to throw away.

Question 4. To what extent are resources available to school districts, educational personnel, and parents to ensure implementation of the IDEA discipline policy?

Summary: Testimonies shed little light on this question.

Gary Orfield, Harvard Civil Rights Project, letter to Senator Tom Harkin, September 25, 2001:

> We believe appropriate treatment will require federal funding and increased support for earlier treatment, better training, more careful screening, and alternative solutions to classroom problems. ...[M]ore funds are needed to bolster federal enforcement, to ensure proper IDEA implementation, and to increase the quality of instruction, supports and services received by minority students in both regular and special education.

Dr. Ann Kaiser, testimony from the hearing before the President's Commission on Excellence in Special Education, "Research Agenda Task Force," Nashville, TN, April 18, 2002:

> My number one priority is the prevention of behavior problems in young children. ...That makes the biggest difference in how many students we see in special education. We don't have an effective technology for identifying or preventing the development of behavior problems.

Richard H. Cate, NCD Request for Public Comment, May 21, 2002:

> ...We developed and issued a document to explain IDEA discipline provisions, which is available at http://www.nysed.gov/sped/policy/discipcover.htm. However, there is a need for extensive school-based training so that school personnel and parents understand the provisions and how to appropriately implement them.
> ... New York State's statutory and regulatory provisions are in compliance with federal IDEA discipline policies. However, given the high rate of suspensions and removals for disciplinary reasons in the schools, states lack the necessary resources to effectively monitor the enforcement of the discipline procedures. New York State enforces the requirements through its quality assurance reviews, complaint investigations and due process appeals.

Issue 4. Eligibility and Overrepresentation of Ethnic, Cultural and Racial Minorities in Special Education

In the most recent IDEA reauthorization in 1997, the U.S. Congress called for greater efforts to ensure that children from culturally and linguistically diverse backgrounds are classified accurately and appropriately placed.

> *"Too many children are being wrongly placed in special education classes under the Individuals with Disabilities Education Act (IDEA), and we need to change that." January 15, 2002, Committee on Education and the Workforce News Release*

> *Over-all race was found to impact special education rates far more than any other variable. The results demonstrate conclusively that school districts do not make special education placements in a color-blind fashion. Dr. Matthew Ladner, October 4, 2001*

And it's a deficit-driven classification model where all the blame for failure is placed on the child; there's little or no assessment of the quality of the student's instructional settings and interventions that are conducted prior to the referral. Dr. Edward Vargas, April 23, 2002

Specific factors such as cultural, ethnic, social or language background are definitely major factors in special education. This includes students who are nonverbal and who must rely on augmentative communication. Kids in special are minorities and their civil rights are shamefully violated on a regular basis. Mary Dickter, Parent, May 2002

Question 1. What policies, procedures, and/or practices can be established related to prevention or early intervention that can contribute to the elimination of the problem of overrepresentation?

Summary: The answers clustered, with the most prevalent theme being the need for strong early intervention programs for identification and prevention of special education placement. Likewise, interventions in general education, with proper testing, rigorous eligibility criteria, assessments, materials, and high quality instruction. These lead to discussions of blended funding streams, referenced earlier in the funding section. For successful early intervention and general education prevention the shortage of teaching staff is identified as a major issue and targeted for changes through professional development, parent training and support. Finally, appropriate data collection and manipulation is important, with the issue of disaggregation for race and gender appearing several times. These will be repeated in recommendations beyond this question and beyond this section, but they are most relevant here to the questioning of policies, procedures and practices.

Assistant Secretary Robert Pasternack, testimony in Senate Health, Education, Labor and Pensions Hearing, March 21, 2002:

> We must make sure that no child is determined to be eligible for special education services merely because of a lack of good instruction or because our teachers and administrators do not have the skills, supports, and technical assistance needed to properly serve them in regular classrooms where they can learn to high standards.

Daniel Losen, New Research on Special Education and Minority Students with Implications for Federal Education Policy and Enforcement, Citizen's Commission on Civil Rights, Part Two: Discriminatory Practices in Education, Chapter 18:

> Where state funding is weighted to spend more money in relation to the degree of disability, black students often face a greater chance of being labeled "retarded" and placed in restrictive programs. …[They] receive less money per student than in states where the funding is not weighted by severity of disability.

U.S. Education Secretary, Washington Times *opinion editorial, November 30, 2001:*

> Our system fails to teach many of these children fundamental skills like reading and then inappropriately identifies some of them as having disabilities. Not only does this hurt those children who are misidentified, it also reduces the resources available to serve children with disabilities.

Sharon Vaughn, testimony from the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> Think about very early intervention and [do] not think about it as special education or … even … as the path to special education, but think about it as the path to prevention.

Daniel Reschley, testimony from the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> …The NAS Committee looked at biological and social differences among groups to see whether those differences contributed to Overrepresentation. The answer on both classes of variables is yes.
>
> ….Our very strong argument is that these differences do not justify continued differences all the way through school. What these differences point to is how essential early intervention is—early identification and early intervention is more effective than later id and intervention. … The NAS Committee strongly recommends early childhood programs—they need to be intense and sustained, they need to provide direct learning experiences in a planned curriculum, and the services need to be comprehensive.
>
> …Some of our general education recommendations: better integration of the systems; improved instruction; and perhaps more important, multi-tiered academic and behavioral interventions prior to special education placement, and that's really critical …To provide behavioral intervention first as part of a school-wide positive discipline program that pays more attention to appropriate behavior than to finding reasons to suspend kids and that translates further into good classroom organization and positive, effective behavior management.

National Academy of Sciences, Minority Students in Special and Gifted Education National Research Council (2002):

> …Federal guidelines should encourage better integrated general and special education services. Eligibility should ensue not only when a student exhibits large differences from typical levels of performance, but when the student does not respond to high-quality interventions. States should adopt, and the Federal Government support, a universal screening and multi-tiered strategy in general education to enable early identification and intervention with children at risk for reading problems, as well as conduct studies to test the plausibility of universal behavior management interventions, early behavior screenings, and techniques to work with children at risk for behavior problems.

> ...As is often the case when comparing research and current policy, the committee found a wide gap between what is recognized as best practice in special education services and what is available to most students. Though research points to ways to improve outcomes, applying this knowledge to improving special education for minority—and all—children remains a challenge.
>
> ...Early identification and intervention is more effective than later identification and intervention. This is in opposition to the current "wait to fail" principle, which increases the likelihood of failure because of the lack of early supports, and decreases the effectiveness of the support once it is in place.

Robert Runkel, testimony before Senate Committee on Health, Education, Labor, and Pensions Committee, March 21, 2002:

> ...Two new programs—Reading First and Early Reading First—have the potential to provide an infusion of both funding and new programs to help target this at-risk population. New Title I resources will clearly benefit our efforts to meet the academic needs of children.

Dr. Sally Arthur, testimony at the hearing before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," May 8, 2002:

> The "Need to Fail" principles should be removed to provide successful implementation of curriculum-based assessment and increase service to students in earlier grades. Most early grade teachers are able to identify, with relative accuracy, students who are not making the necessary gains. Appropriate efforts could contribute to a significant difference in numbers of students in need of special education and long-range outcomes for all students.

Ron Benner, School Psychologist, public comment from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> We need early intervention with programs that are researched-based and field-tested. ...Start with birth to three.

Katy Beh Neas, testimony at the hearing before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, "Rethinking Special Education: How to Reform the Individuals with Disabilities Education Act," May 2, 2002:

> The Committee must examine strategies to ensure access to early intervention services for all eligible infants and toddler with disabilities and their families.

Dr. Gwendolyn Cartledge, testimony at the hearing before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> Preschool children from this population need access to high quality preschool programs. Recent scientific reports showing lasting effects of quality early childhood childcare into adulthood [are] instructive. Children who were in these programs, not only achieved better, but were less likely to be referred for special education, were less likely to access the criminal justice system, were more likely to finish high school, and more likely to go into college. …For children at the greatest risk, early intervention needs to parallel, if not exceed, those services that are currently available to families of infants with low incidence disorders such as sensory disabilities. Emphasis needs to be placed not only on remediation for those at risks for school failure, but also on stimulating the cognitive abilities for youngsters who show promise of giftedness.

Kathleen Boundy, U.S. Commission on Civil Rights, Briefing on the Reauthorization of the Individuals with Disabilities Act, April 12, 2002:

> These youngsters should be in inclusive settings and natural settings, and they also should be given educational components to learn so that they're not starting kindergarten already behind. I think an awful lot of what happens in learning is that when children come into school behind, behavior becomes the way to hide themselves as they age up.

Dr. Thomas Hehir, testimony at the hearing before the Committee on Education and the Workforce, U.S. House of Representatives, October 4, 2001:

> Researchers have identified the lack of early reading and behavioral interventions as a contributing factor. Support early intervention programs. High quality preschool programs, and early intervention for students experiencing difficulty with reading and behavior have been shown to decrease the number of children inappropriately referred to special education.

U.S. Education Secretary, testimony at the hearing before the Committee on Education and the Workforce, U.S. House of Representatives, October 4, 2001:

> Research shows that children who pass through the early grades undiagnosed and undetected miss opportunities to benefit fully from instruction. This occurs with too many children. Schools need help in early identification and the provision of appropriation special education services as soon as possible.

Chancellor Harold Levy, testimony from the hearing before the President's Commission on Excellence in Special Education, "Assessment and Identification," Brooklyn, NY, April 16, 2002:

> …There is no question, the earlier the identification, the better. And what we need to do is train our people so that the evaluation can take place at an early enough level and [be] done in a professional way so that we have early intervention or the opportunity to really do something to bring the kid back into general ed.
>
> …IDEA should be amended to allow funding of intervention and prevention strategies to support students in general education who are experiencing academic, social or behavioral difficulties that place them at risk of referral to special education. Whole school approaches create a single, seamless service delivery system for all students, disabled and nondisabled alike … predicated upon the belief that students are more alike than they are different and that integrating resources results in improved student outcomes for all. This strategy puts an end to what I believe is an unhealthy and unproductive competition for resources between general education and special education.

Dr. Richard Schoonover, testimony at the hearing before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," May 8, 2002:

> IDEA needs to provide flexibility for local innovative programs and procedures. … which encourage states and school districts to … develop services for students that provide the "ounce of prevention." Limited services should be available for students prior to verification of a disability, and for students who are at risk of being identified.

Bill Freund, testimony from the President's Commission on Excellence in Special Education, "Finance Task Force," Los Angeles, CA, March 21, 2002:

> [T]o prevent this potential, one possibility may be to require one or two research-based instructional interventions before labeling a student SLD.

Commission Chair Terry Branstad, remarks from the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> Emphasis [should be] on early intervention and prevention, the use of special education resources, particularly with regard to dealing with behavior in general education contexts, and then … on outcomes in special education.

Chaka Fattah, testimony at the hearing before the Committee on Education and the Workforce, U.S. House of Representatives, October 4, 2001:

> Develop a district wide vision for the education of all students. Review traditional school practices to identify and address factors that may contribute to student difficulties. Redefine staff roles to support a shared responsibility for all students.

Richard Cate, NCD Request for Public Comment, May 21, 2002:

> ...Support innovative and research-based effective practices and national models of program and service delivery directed to improve the overall results for students with disabilities and to determine how to remedy discriminatory practices that lead to disproportionate representation.
>
> ...Training for evaluators, administrators and teachers and more effective technical assistance and information on effective approaches for preventing and corroding disproportion.
>
> ...Opportunities to waive certain federal requirements that may be barriers to creativity must be allowed when states and school districts are able to show effective and innovative approaches that improve results.
>
> ...Comprehensive effort to establish adequate support services in general education. Congress needs to target, not necessarily through IDEA, more resources for systemic prevention and early intervention and support services in the general education system.
>
> ...States need to identify school districts with high rates of identification, low rates of declassification, high rates of placements in separate sites, and significant disproportion, based on race and ethnicity [and] work with identified districts to verity such rates, determine underlying causes and, if necessary, require the development of a corrective action plan. Criteria need to be developed to identify school districts significantly above the average for each area of concern.

Sharon Vaughn, testimony from the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> States adopt a universal screening and multi-tiered intervention strategy to enable early identification and intervention for children at risk for reading problems. This same recommendation also holds for students with behavior problems. ...And the best way to do that is through early identification. ...All students should be screened early and probably right around the middle of the end of Kindergarten or early First Grade. ...Students who fail to make adequate progress can be provided with supplemental instruction. ...Based on progress monitoring benchmarks, we can provide assessments or screenings in the classroom-by-classroom teacher with fairly minimal training. ...Students not meeting the benchmarks will receive additional support--continued primary intervention—core reading and supplemental intervention ...continued monitoring progress at benchmarks and exit when it [is] appropriate to do so.

Gary Orfield, Harvard Civil Rights Project, letter to Senator Tom Harkin, September 25, 2001:

> [Research by Osher, Woodruff and Sims] suggests that the failure to provide less intrusive early intervention and high quality services for African American children exhibiting signs of ed and trauma leads to over identification in highly restrictive programs and in our juvenile justice system. ...Many minority students would be better off if schools had additional funds to improve the quality and effectiveness of early intervention ... a number of the findings from our commissioned research call for greater training of both regular and special educators to ensure that regular classroom teachers are well equipped to deliver instruction to students with special needs or who are struggling academically.

Kathleen Boundy, testimony before U.S. Civil Rights Commission Briefing: The Promise and Practice of IDEA, Washington, DC, April 12, 2002:

> We should be going in and looking at those schools [with disproportionate number of children excluded based on race] and saying, do these kids have positive behavior strategies being offered?"

Daniel Losen, New Research on Special Education and Minority Students with Implications for Federal Education Policy and Enforcement, Citizen's Commission on Civil Rights, Part Two: Discriminatory Practices in Education, Chapter 18:

> ...Improvements in the quality of instruction and curriculum for minority students, in both regular and special education, should be top priorities if the patterns of minority Overrepresentation in special education are to be remedied. (Beth Harry-Rocks and Soft Places)
>
> ...Greater support to meet the specific educational and emotional needs of minority students, through improved research, early intervention, and sustained services, is needed to stem the dangerous flow of minority school children into the juvenile justice system. (Osher, Woodruff and Sims, Exploring Relationships)
>
> ...OSEP and OCR should work together with states to gather and disseminate school and district data on minority identification and placement rates. . Solving the problems will require a comprehensive systemic approach ... state and federal agents who intervene should provide technical assistance and supports that consider the needs of the students and teachers in regular education classrooms and not simply seek to correct numerical disparities in special education.

American Youth and Policy Forum and Center on Education Policy, Twenty-five Years of Educating Children with Disabilities: the Good News and the Work Ahead:

> Experts have suggested several strategies to reduce inappropriate placements in special education. They include expanding intervention programs in preschool and general education, addressing other deficiencies in the school system that may lead to low

achievement, and increasing access of poor families to health and social services. Other strategies include providing professional developmental and other supports to special education and general education teachers to make them work more effectively with a diverse student population; using culturally-relevant assessments and materials; and redefining staff roles to support shared responsibility for all students.

U.S. Education Secretary, testimony at the hearing before the Committee on Education and the Workforce, U.S. House of Representatives, October 4, 2001:

> Often the more separate a program is from the general education setting, the more limited the curriculum and the greater the consequences to the student, particularly in terms of access to postsecondary education and employment opportunities. The stigma of being misclassified as mentally retarded or seriously emotionally disturbed, or as having a behavioral disorder, may also have serious consequences in terms of the student's self perception and the perception of others, including family, peers, teachers and future employers.

Dr. Gwendolyn Cartledge, testimony at the hearing before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> I strongly recommend that we focus on, one, prevention, and, two, teaching children more adaptive ways to behave.

Daniel Reschley, testimony from the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> Most state regulations require an IQ discrepancy for LD determination. ...So we recommend that special education eligibility focus on interventions, that it use non-categorical conceptions of disabilities or markedly changed criteria for the current high-incidence disabilities. No IQ test would be required, and the results of an IQ test would not be the primary criterion.

Dr. Frank Gresham, testimony from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> The current approach to defining learning disabilities based on IQ achievement discrepancy should be summarily abandoned because it is fundamentally flawed, invalid and prevents early identification intervention efforts. School study teams should give more weight to teacher judgments in the special education eligibility process. Assessment procedures that contribute information to informed instructional decisions should become primary instruments of special education eligibility determination.

Linda Wernikoff, testimony from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> I think if you would eliminate mandatory IQ testing it would certainly be a way of having our school psychologists spend their time doing intervention and prevention. One of the major things that we have done in New York City is increase the flexible way that school psychologists spend their time, so that… they have been an integral part of our intervention [by] conducting functional behavior assessments, doing behavior intervention plans, not only for students who are referred to Committees on Special Ed, but youngsters who are in general ed who are having difficulties.

Commissioner Cheryl Takemoto, remarks from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> [F]amilies who have the access to attorneys get the services, while families in the lower socioeconomic brackets, which in our country is represented largely by minorities, are not getting the services that they need.

Dr. Edward Vargas, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> …Increasing the presence of high-quality differentiated instruction in general education for high-incidence of mild disability referral;
>
> …Underscore reading and math because most of the students that are referred for special education are referred for reading problems … provide for universal early screening of all students.
>
> …Capitalize on the emerging standards-based instructional attainment strategies, achievement disaggregation, and research based instruction. There are multiple systems now emerging around the country that allow teachers to look very closely at the learning standards for that state to disaggregate student performance based on criterion-referenced assessments, to look at content clusters, to look at the skill sets, and to look at matching researched-based strategies with that.
>
> …Shift the focus of identification from labeling the children to matching each student's teaching and learning to specific high-quality instructional intervention, eliminating the classification labels that presume instructional relevance and the interventions that may accompany the placement.

Commissioner Jack Fletcher, opening remarks from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> In order for our public schools to truly serve all students and ensure that no child will be left behind, we have to develop better methods of screening and identifying children with high incidence disabilities.. …Here in New York City, the Board of Education and the U.S. Department of Education reached agreement in 1997 allowing the City's school system to significantly reduce the number of inappropriate and disproportionate referrals of African-Americans, Hispanics and English-deficient students …through the increased use of remedial and pre-referral intervention programs. The U.S. Department of Education Office of Civil Rights is awaiting further data from the Board to confirm the success of these programs.

U.S. Commission on Civil Rights, Recommendation on the Reauthorization of IDEA, May 2002:

> …There should be increased emphasis on outcomes and improving access to effective regular education and special education services.
>
> … Judgment as to whether a child has a cognitive disability or emotional disturbance should be withheld until he or she has received high-quality instruction in the general education setting. More pre-referral interventions should be implemented at the local level.
>
> …Schools with disproportionate representation in special education should be subject to federal evaluations to determine whether individual placements are appropriate. Where over-referral is found, districts should be required to develop plans for better evaluative tools and reintegration of misclassified students in regular education. … Timelines for completion should be established and observed.
>
> …DOED, in the disbursement of discretionary funds, should focus on traditionally under served populations, allocating adequate money to improving the assessment process. Perhaps a percentage of federal funding could be used to tie demographic and income data to state and local performance plans or strategies designed to overcome Overrepresentation or inappropriate categorization. Federal funding should be available to encourage and reward districts that develop successful plans for reducing rates of over-referral and that engage in activities targeting under served populations, for example, by creating inner city or rural parent training centers.

Dr. Donald Oswald, U.S. Commission on Civil Rights Briefing on the Reauthorization of the Individuals with Disabilities Act, April 12, 2002:

> National progress … and an improved understanding of the causes and remedies are dependent on the regular, systematic collection of high-quality data and its continued availability to the public in a usable form. Requiring states to disaggregate special

education data by race, ethnicity, and by gender is essential. Race and gender data are critical not only for identification but also for placement and exit data if we are to adequately grasp how special education serves all of America's children.

Chancellor Harold Levy, testimony from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> The criteria for determining the existence of a disability are inadequate within the current IDEA framework, and in my judgment, contribute to misidentification and overrepresentation. The reauthorization must address more rigorous eligibility criteria. ...There is also powerful research suggesting that a lack of instructional and behavioral interventions is a contributing factor to special education referrals.

Dr. Philip Burke, testimony from the President's Commission on Excellence in Special Education, "The Role and Function of the Office of Special Education Programs (OSEP) in the Implementation of Special Education," April 26, 2002:

> I think you can deal with part of it through personnel preparation, part of it through improving the general education that's available to children in the schools.

Dr. Kim Goodrich Ratcliffe, testimony before Senate Committee on Health, Education, Labor and Pensions, March 21, 2002:

> ...An expressed concern has been the purposeful over-identification of students with disabilities in order to increase school district revenues. ... School districts operate in a limited resource model. There are only so many dollars available and an increase in cost in one area must be offset by a decrease in another area. There is no financial incentive to over-identify students as needing services under IDEA.
>
> ...Continue to fund effective existing programs and encourage the creation of additional programs for children in poverty, or who are otherwise at risk of failure in school, to prevent the over-identification of students with disabilities. Effective existing programs would include but not be limited to, Head Start, Parents as First Teachers, First Steps, Title 1, and programs for migrant workers and homeless children.

Dr. Martin Gould, testimony from the President's Commission on Excellence in Special Education, "The Role and Function of the Office of Special Education Programs (OSEP) in the Implementation of Special Education," April 26, 2002:

> To the extent that you can target personnel preparation programs, or even set expectations up within grants that go to certain geographic areas, I would suggest that you consider those kinds of approaches.

Question 2. What strategies and/or policies should school districts creates or adopts related to culturally and linguistically sensitive and appropriate family centered services?

Summary: Some answers are quite obvious: pre-natal and other health care services, coordinated family services; culturally appropriate technical assistance to schools, training in culturally sensitive diagnostics and parent training. One individual recommended cultural competencies for state certification requirements; and also suggested culturally sensitive diagnostics.

U.S. Commission on Civil Rights, Recommendations on Reauthorization of IDEA, May, 2002:

> ...The reauthorized IDEA should give increased attention to racial, ethnic, and linguistic diversity to prevent inappropriate over-referral of students of color. ...OSEP should develop culturally and linguistically appropriate technical assistance materials, and develop programs to better serve students living on or near Indian reservations.
>
> ...Teachers must receive better training in diagnosing disabilities and recognizing cultural misconceptions that lead to misdiagnosis.
>
> ... And better evaluative tools, that are culturally and linguistically sensitive and allow for appropriate accommodation, should be devised.

Dr. Gwendolyn Cartledge, testimony from the hearing before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> ...CLD children born into families with specific markers associated with school failure, for example, extreme poverty, premature parenting, parent criminality, family disorganization and so forth, need to be targeted for early intervention ... [including] family support and education, health services, sustained high quality care and cognitive stimulation.
>
> ... We need to aggressively pursue the involvement of CLD families and schools need to be trained to make outreach to families. Many of these impoverished families don't know the kinds of things that they need to do to stimulate the children's emotional as well as intellectual well-being, so I think there is a real need to address that issue if we are serious about prevention. But I also want to point out that a lot of our problems with culturally and linguistically different children are the way we assess them. We fail to assess them in their native language; we fail to understand cultural differences.

National Academy of Sciences, Minority Students in Special and Gifted Education National Research Council (2002):

> All high-risk children should have access to high-quality early childhood interventions, which may include family support, health services, and preschool learning opportunities

that will prepare them for success in school. Additionally, an ongoing program for research and development in early childhood intervention strategies should be developed and maintained.

Dr. Edward Vargas, testimony from the hearing before the President's Commission on Excellence in Special Education, "System Administration Task Force," San Diego, CA, April 23, 2002:

> ...We're finding, in agencies serving inner-city communities, that many of the people providing the services are experiencing stress, burnout, and depression; and these are people that we're being expected to collaborate with. ...Support institutional health and collaborating agencies. We just can't assume that they are going to be in any different shape than many of the families that they're serving and, in addition to that, we need to support the collaboration process. In California, for example, there are things called local planning areas that work with programs that are supposed to collaborate, to hand-hold along the way.
>
> ...Expand the availability of, and access to, quality preschool, full-day Kindergarten, early literacy, health care, and parent support systems. We know that, when young people and parents have access to these services, they come to school ready to learn reading and are not in need of remediation.
>
> ... If young mothers don't have access to adequate pre- and postnatal, health care and get the support systems they need and have access to high- quality preschool and -- it will be very difficult to provide for the interventions that are necessary.

Maria Gomez, public comment from the hearing before the President's Commission on Excellence in Special Education, Houston, TX, February 27, 2002:

> The disproportionate number of Latinos also classified as being disabled due to the language barrier puts them at a disadvantage when there are tests. Could a different kind of test be available to eliminate these overcrowded classes, perhaps to place these students in regular education with the support of ESL?

Barbara Cheadle, testimony from U.S. Commission on Civil Rights Briefing: Promise and Practice of IDEA, Washington, DC, April 12, 2002:

> Parents need to be trained too. ... Parents do not know what to do.

Dr. Thomas Hehir, testimony at the hearing before the Committee on Education and the Workforce, U.S. House of Representatives, October 4, 2001:

> Increase access to health services for poor women and children - failure to do so will increase the number of children that have disabilities.

Chakah Fattah, testimony before House Education and the Workforce Hearing, October 4, 2001:

> Form policy-making bodies that include community members, and promote partnerships with service agencies and cultural organizations. Help families get social, medical, mental health and other support services. Develop supports such as early childhood and at-risk programs, and offer an array of services to the community. Recruit and retain "qualified" educators who have course work and experience with diverse student populations and who are from diverse backgrounds.

Donald Oswald, U.S. Commission on Civil Rights, Briefing on the Reauthorization of the Individuals with Disabilities Act, April 12, 2002:

> The impact of cultural competence training is unknown. …Considerable effort has been put into developing and disseminating cultural competence training methods and materials over the past two decades. But the extent to which these training programs significantly affect outcomes for children has rarely been examined. …The recent upsurge of overrepresentation suggests that cultural competence training efforts have thus far been unable to stem the tide.

Question 3. What strategies and/or policies should state systems of higher education implement to prepare, recruit, and retain qualified professionals from culturally and linguistically diverse groups?

Summary: Training, training, and more training is being requested. Increased training in behavior management, culturally sensitive training for both special and general education teachers; pre-service and in-service training, including a National Advisory Panel to develop partnerships between universities and the community to strengthen in-service training. Quality research is also a critical area of need. Especially important to note is the statement about the importance of strong training for university trainers.

Donald Oswald, U.S. Commission on Civil Rights, Briefing on the Reauthorization of the Individuals with Disabilities Act, April 12, 2002:

> Educational policy initiatives should be scrutinized for unintended consequences. …Policy initiatives such as the …focus on school accountability and high stakes testing may have unanticipated and unintended consequences with respect to disproportionality.

National Academy of Sciences, Minority Students in Special and Gifted Education National Research Council (2002):

> In addition, schools with higher numbers of low-income children are less likely to have well-trained staff with experience in effective classroom management.

Daniel Reschley, testimony from the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> We suggest a national advisory panel be convened in an institutional environment that is protected from political influence to study the quality and currency of programs that now exist to train teachers for general, special, and gifted education, … something that would specify very, very clearly competencies that teachers need to master and then has the teeth to make sure those things occur.

Dr. Rebecca Hamilton, testimony from the President's Commission on Excellence in Special Education, Des Moines, IA, March 13, 2002:

> Second recommendation is knowledge of research-based interventions. What are they? Do our regular education teachers know what they are and do our special education teachers know what they are? And everyone, teachers, administrators, para-educators, everyone has to be trained in current theory and best practices. They must know what to do, how long to do it, and why they're doing it. Consistency of research-based message is critical. Everyone has to hear the same message.

Dr. Mary Brownell, testimony from the President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> We have too many children that are minorities in special education, so these teachers must understand not only educational issues, but ecological, social, and political issues surrounding children with disabilities. Special educators have an even greater task. They need to be able to do most of those things, if not all, and then some. Special educators need a specialized knowledge of assessment, instruction, assistive technology, and behavior. For example, special education teachers need to know about functional assessments so that they can look at what kind of situations are causing children's behavior problems so that they can remedy those situations. … what we're arguing for is looking at how initial preparation, beginning teacher induction, and professional development can be used to help remedy this situation. … five OSEP-funded research projects that looked at linking research that had been done in the field to practice in the classroom. Those projects found that with sufficient support in professional development, those teachers could learn to implement evidence-based practices in the classroom, and, in fact, improve student achievement. … High quality mentoring programs in special education have been shown to improve the collaborative skills of not only the beginning teacher, but also the mentored teachers … teachers who have more intensive field placement, enter graduate mentor programs, were more likely to view themselves as effective in dealing with children.

Dr. Thomas M. Skrtic, testimony from hearing before the President's Commission on the Excellence in Special Education, Denver, CO, March 6, 2002:

Essentially what we're proposing is to complete the circle. We've already linked IDEA with standards-based reform, and we've linked that to Improving America's Schools Act, now known as the Leave No Child Behind Act. What we really need to do is to link all of that to the Higher Education Act. By that we mean that Title II should be amended to require all general education teacher education program completers to demonstrate competency in the content, knowledge, and skills necessary to serve students with disabilities under the requirements of the IDEA.

Dr. Mark Batshaw, testimony from the President's Commission on Excellence in Special Education, "Professional Development Task Force," Denver, CO, March 6, 2002:

...Look seriously at the kind of partnership models between universities and districts that can result in sustained ongoing improvements in both in-service and preservice or ...in blended models of the two.

Dr. Joseph Wehby, from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

...Increased behavior management training should be provided to general education teachers, special education teachers, school administrators, and related service personnel. This training should focus on evidence-based practices that address behavior needs at the whole school and individual child levels. An emphasis needs to be placed on the importance of quality academic instruction as a critical component to any behavior management program. Teacher training programs in the area of severe behavior disorders should require at least one primary course in the area of academic instruction, specifically in the area of reading. Both the general and special education teachers should receive training that emphasizes the importance of behavioral assessments to the initial development of defective programming for these students teacher preparation should include transition planning as an important piece of the training process.

...Continued research on effective strategies is needed to determine the efficacy of different models of behavioral and academic intervention for students with severe behavior disorders. As the number of evidence-based strategies increases this information needs to be incorporated in both pre-service and in-service training programs for general and special education teachers.

Richard Cate, NCD Request for Public Comment, May 21, 2002:

...IHEs need to provide creative incentives to help attract, train and retain personnel and to expand and strengthen pre-service programs in both general and special education. Teachers of future teachers need to have solid understanding of factors leading to disproportionate representation and be able to assist students in addressing them in school settings. Strategies and policies such as targeted field and student placements and involving students from diverse backgrounds in the interview process are among those that could help recruit and retain professionals from culturally diverse groups.

> ...Coursework in higher education needs to better prepare professionals in the areas of diversity and multicultural education and to address the effects of cultural and language differences on student assessment, appropriate interpretation of results, and the identification of appropriate instructional interventions.

Elisa Hyman, public comment from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> [There is a] tremendous need for cultural competency in the School system. There's also a need to support teachers and administrators to manage behavior, not only to use exclusion as a method to address children with behavior problems. Certainly, we need to insure that quality educational and other kinds of evaluations are provided that actually can give recommendations for instructional methodologies.

Dr. Gwendolyn Cartledge, testimony from the hearing before the Subcommittee on Education Reform, Committee on Education and the Workforce, U.S. House of Representatives, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> Pre-service and in-service training for general ed teachers needs to be designed to equip personnel with cultural competence.... [and] behavior management skills. I have my highly trained graduate students, Ph.D. level graduate students, working in the classrooms with the teachers, serving as what I call coaches. ...We have helped teachers to identify, design, implement instructional strategies to work with all of the children in the classroom. And we have been collecting data [that] shows when these teaching practices are in effect, not only are children responding more correctly academically but the level of disruptive behavior goes down dramatically.

National Academy of Sciences, Minority Students in Special and Gifted Education, National Research Council (2002):

> Add to the state certification or licensure requirements for teachers: competency in understanding and implementing reasonable norms and expectations for students; experience in modifying an education environment to meet children's individual needs; competency in behavior management in classroom and non-instructional school settings; instruction in functional analysis and routine behavioral assessment of students; instruction in effective intervention strategies for students who fail to meet minimal standards; and preparation to deliver culturally responsive instruction. Beyond initial certification, teachers and administrators should have regular exposure to current knowledge on instructional techniques.

Dr. James Ysseldyke, testimony from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> Teachers sometimes know about things like retroactive and proactive inhibition and they don't know what to do on a daily basis with kids, so we haven't got as much good training as we ought to have on implementation of empirically demonstrated strategies and tactics so that teachers know precisely what to do on a daily basis with kids.

Rebecca Walk, testimony from the President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> Individuals who want to teach must be taught how to teach to an increasingly diverse range of learners rather than a single or homogeneous grouping. We need to work collaboratively with our institutions of higher education to bring about the changes in present curriculum and the practice this will require. In order to promote the changes that need to happen so teachers leave colleges and universities prepared to teach in an environment with a variety of diverse learning needs, the institutions of higher education should be provided financial incentives through grants to encourage the use of a variety of methods to attract and train new personnel

Question 4. What strategies and/or policies should state and local school districts adhere to to ensure that students with disabilities from diverse backgrounds are included and accommodated in new statewide and district-wide assessments of student performance?

Summary: Strengthen the law to require accountability for all students—a theme that appears elsewhere in this document—staff development with improved teacher preparation and in-service opportunities, collect and share useful data, and promote research and technical assistance on diversity in the classroom.

Dr. James Ysseldyke, testimony from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> We see standards in their IEPs. We see kids making progress towards standards, and we see some school systems for the first time in history, assuming that they have responsibility for improving outcomes for those kids because they count. So I would also encourage the Commission to just reinforce, strengthen that part of our law right now, which says that you must account for the performance and progress of all students.

Dr. William L. Sanders, testimony from hearing before the President's Commission on Excellence in Special Education, Denver, CO, March 6, 2002:

> If I could be the czar for a moment, the first thing I would do is spend every dollar, federal and state, in staff development activities to assist teachers to learn how to monitor the progress of individual children in the classroom … I certainly can show that … children can make wonderful individual progress … if people are differentiating instruction in reaching the needs of individual children.

Question 5. How can we preserve the protections afforded students and parents under federal and state special education regulations and correct the problems of unnecessary over-referral of students from diverse cultural and linguistic backgrounds for special education?

Summary: This is such an important question. The lack of direct answers in no way undercuts its importance. The fact is that it is addressed in other ways under the Monitoring and Enforcement Section of the document.

Chancellor Harold Levy, testimony from the President's Commission on Excellence in Special Education, "Assessment and Identification Task Force," Brooklyn, NY, April 16, 2002:

> The IDEA still provides greater protections for classified students than general education, thereby contributing to the over identification.

Richard Cate, NCD Request for Public Comment, May 21, 2002:

> …States need to monitor progress of school districts in meeting key performance indicators. They should collect and analyze data, review annual progress reports, and review policies, procedures and practices in those districts with significant overrepresentation, based on race/ethnicity in the identification of children as children with disabilities, or placement in particular educational settings, to ensure that IDEA requirements are met.
>
> …By increasing the pool of trained personnel and promoting research on the effects of cultural and language differences on student assessment, increasing the availability of technical assistance, and identifying appropriate instructional interventions, local districts will have a better understanding of how to address the needs of students from diverse backgrounds.

Question 6. Are there additional policy or implementation barriers that should be considered in order to eliminate problems related to overrepresentation?

Summary: Funding and removal of financial incentives for higher numbers of special education placements, and, once again, targeted data—surface here as well as elsewhere in the document. Many issues bump into each other, but we chose to highlight these in this last question as well.

Dr. Thomas Hehir, testimony before House Education and the Workforce Hearing, October 4, 2001:

> The failure to provide adequate federal funding for special education may exacerbate overrepresentation. Many of the districts with large populations of poor and minority students, will not have the resources to implement needed innovations.

National Academy of Sciences, Minority Students in Special and Gifted Education National Research Council, 2002:

> The Department of Education should conduct a single, well-designed data collection effort to monitor the number of children receiving special education services and the characteristics of those children. The committee also recommends that a national advisory panel be convened to design the collection of longitudinal data that would allow for a more informed study of minority disproportion in special education. Finally, the committee suggests that research be carried into practice more effectively, which would include research on scaling up promising practices from research sites into widespread use.

Dr. Frank Rusch, testimony from the hearing before President's Commission on Excellence in Special Education, Transition Task Force, Washington, DC, April 30, 2002

> Mentoring has worked well as transition-based services for African American students.

U.S. Commission on Civil Rights, Recommendations on the Reauthorization of IDEA, May 2002:

> Racial and ethnic data collected by OSEP should be disaggregated by gender. DOEd should fund research for those tracks by race/ethnicity for students who are wrongly identified as needing special education.

Daniel Reschley, testimony from the President's Commission on Excellence in Special Education, Houston, TX, February 25, 2002:

> We note that minority students are more likely to be served in more restrictive environments, [but there is] virtually no evidence on whether or not African-American teachers [are] less likely to refer African-American males due to behavioral difficulties. There is a huge amount of speculation … but no data. We need data on those issues.

List of Commenters

Commenters are listed by date of their appearance at the Commission, Congressional and other public hearings

I. President's Commission on Excellence in Special Education Public Hearings
http://www.ed.gov/inits/commissionsboards/whspecialeducation

Houston, Texas, February 25—27, 2002
Speakers
Dr. Daniel Reschly, Chair, Department of Special Education and Professor of Education and Psychology, Peabody College, Vanderbilt University
Dr. Sharon Vaughn, Mollie Villeret Davis Professor in Learning Disabilities and Director of the Texas Center for Reading and Language Arts, College of Education, University of Texas, Austin.
Larry Gloeckler, New York State Deputy Commissioner for Vocational and Educational Services for Individuals with Disabilities, Albany, NY
Jim Comstock-Galagan, Attorney, Southern Disability Law Center
Gene Lenz, Texas State Director of Special Education, Texas
Public Comments
Beth Foley, Council on Exceptional Children, Washington, DC
Rick Tisch, Parent and Member of Texas Council on Developmental Disabilities
Dr. Brenda Scheuermann, Council of Children with Behavioral Disorders (CEC)
Kimberly Ann Brusatori, Parent
Randi Turner, Advocate, Texas State Commission on Deaf and Hard of Hearing
Missy Steed, Director of Development of Family to Family Network.
Kay Lambert, Advocacy, Inc., Austin, TX
Jean Palochino, IDEA Partnerships Project, ASPIRE cadre, AOTA
Maria Gomez, Parent, Dallas, Texas
Dr. Karen Scheinbaum MD, Parent, Houston, TX

Professional Development Task Force, Denver, CO, March 6, 2002
Speakers
Dr. Thomas M. Skrtic, Chair of the Special Education Department, University of Kansas
Dr. Mary T. Brownell, Professor of Special Education, University of Florida
Mark L. Batshaw, M.D., Chief Academic Officer and Director of Children's Research Institute, Children's National Medical Center and The George Washington University, Washington, DC
Dr. Joyce Bales, Superintendent, District 60 Schools, Pueblo, CO
Dr. G. Thomas Bellamy, Interim Vice Chancellor of Academic Affairs, University of Colorado at Colorado Springs, CO
Beth Schaffner, Director of Curriculum and Technical Assistance of Peak Parent Center, Colorado Springs, CO

Dr. Rebecca Hamilton, Senior Officer for the Liberty Plus Initiative, Pittsburgh Public Schools and teacher, graduate program, University of Pittsburgh
Dr. Rebecca Walk, State Director of Special Education, WY
Dr. William Sanders, Manager of Value-Added Assessment and Research for SAS, Carey, NC
Public Comments
Rabbi Abrhamchik, Principal, Hillel Academy of Denver.
Robin Brewer, Assistant Professor, University of Northern Colorado
Sheila Buckley, Parent, Learning Disability Association of Colorado
Deborah Ziegler, Council on Exceptional Children, Washington, DC

Accountability Systems Task Force, Des Moines, IA, March 13, 2002
Speakers
Brian McNulty, McREL, former Colorado State Director of Special Education, Denver, CO
Dr. Gerald Tindal, Professor and Head, Department of Educational Leadership, Technology, and Administration; Co-director, Behavioral Research and Teaching at the University of Oregon
Dr. Lizanne DeStefano, Director, Bureau of Educational Research, University of Illinois, Urbana
Dr. Martha Thurlow, National Center on Educational Outcomes, University of Minnesota
Dr. Rebecca Hamilton, University of Pittsburgh
Public Comments
Dennis Dykstra, Consultant, Bureau of the Children and Family and Community Services, Iowa State Department of Education

Finance Task Force, Los Angeles, CA, March 21, 2002
Speakers
Bill Freund, Senior Budget Analyst, Ways and Means Committee, Washington State Senate
Dr. Jack Daray, former Fiscal Analyst, House Appropriations Committee, Washington State House of Representatives
Paul M. Goldfinger, Vice President of School Services of California, Inc., Sacramento, CA
Dr. Eric Hanushek, Paul and Jean Hanna Senior Fellow, Hoover Institute, Stanford University, Palo Alto, CA
Steve Johnson, Assistant Superintendent, Bozeman Public Schools, Bozeman, MT
Dr. Thomas Parrish, Director, Center for Special Education Finance and Managing Director, American Institute for Research, Palo Alto, CA
Public Comments
Dr. Irving Lebovics, Board Member, Etta Israel Center in Los Angeles, CA
Dr. Bennett Ross, Executive Director, Frostig Center, Los Angeles, CA

Assessment and Identification Task Force, Brooklyn, NY, April 16, 2002
Speakers
Dr. Harold Levy, Chancellor, New York City Schools
Dr. James E. Ysseldyke, Professor of Educational Psychology, University of Minnesota
Dr. Gwendolyn Cartledge, Professor of Special Education, Ohio State University

Dr. Julie Berry Cullen, Assistant Professor of Economics, Faculty Research Fellow, National Bureau of Economic Research, University of Michigan
Dr. Joseph H. Wehby, Assistant Processor of Special Education, Vanderbilt University
Dr. Frank Gresham, University of California at Riverside

Public Comments

Linda Wernicoff, Deputy Superintendent, Special Education Initiatives, New York City
Ron Brenner, School Psychologist, Seymour, CT
Elisa Hyman, Deputy Director, Advocates for Children, New York City
Cassandra Archee, Director, Advocacy Center, Rochester, NY
Etyan Kobre, Associate General Counsel, Agudath Israel of America
Tom DiPaioli, State Director of Special Education, RI

Research Agenda Task Force, Nashville, TN, April 18, 2002

Speakers

Dr. Lynn Fuchs, Professor of Special Education, Vanderbilt University, Nashville, TN
Dr. Douglas Fuchs, Professor of Special Education, Vanderbilt University, Nashville, TN
Dr. Susan B. Hasazi, Professor, Department of Education, University of Vermont, Burlington, VT
Dr. Ann Kaiser, Professor of Special Education and Psychology, Vanderbilt University, Nashville, TN
Dr. Dan Reschly, Department Chair of Special Education, Vanderbilt University, Nashville, TN

Public Comments

Nancy Diehl, Parent and Director of Parent Training and Information Center, Greenville, TN
Randall Moody, National Education Association, Washington, DC

System Administration Task Force, San Diego, CA, April 23, 2002

Speakers

Dr. Maggie McLaughlin, Associate Director, Institute for Study of Exceptional Children and Youth, University of Maryland, College Park, MD
Dr. Edward Lee Vargas, Superintendent of Hacienda La Puente Unified School District, City of Industry, CA
Dr. Batya Elbaum, Associate Professor in Department of Teaching and Learning, and the Department of Psychology at University of Miami, and Director of the University of Miami School of Education Center for Research
Donnalee Ammons, CEO of Success Insites, LA
William Dussault, Esq., Vice President of the Council of Parent Advocates and Attorneys, Seattle, WA
Dixie Jordan, Director of the Families and Advocates for Education, Riverton, WY
Carol Topinka, Director of Special Services, Milwaukee Public Schools
Dr. Judy Elliot, Assistant Superintendent for Special Education of Long Beach Unified School District, Long Beach, CA

Public Comments

Steve Brown, Parent

Allison Brenneise, Psychologist and Parent

"The Role and Function of the Office of Special Education Programs (OSEP) in the Implementation of Special Education," Washington, DC, April 26, 2002

Speakers

Alice Parker, Director of Special Education, California
Barbara Gantwerk, Director of Special Education, New Jersey
Dr. Thomas Hehir, Harvard Graduate School of Education, Former Director of the Office of Special Programs
Paula Goldberg, Executive Director, PACER Center, Minneapolis, MN
Leslie Seid Margolis, Parent and Managing Attorney, School House Discipline Project, Maryland Disability Law Center, Baltimore, MD
Dr. Philip J. Burke, Professor and chair of Special Education, University of Maryland, College Park, MD
Dr. Martin Gould, Senior Research, National Council on Disability, Washington, DC

Public Comments

Paul Marchand, Co-Chair of Consortium for Citizens with Disabilities Education Task Force and The Arc, Washington, DC
Bill East, National Director, National Association of State Directors of Special Education, Alexandria, VA

Transition Task Force Hearing, Washington, DC, April 30, 2002

Speakers

Dr. Frank Rusch, Professor of Special Education, College of Education at University of Illinois at Urbana-Champaign
Cathy Healy, former Project Coordinator for The Parent Educational Advocacy Training Center (PEATC), Springfield, VA (current Kennedy Fellow, Office of Disability Employment Policy, U.S. Department of Labor, Washington, DC)

Commissioners

Terry E. Branstad, Iowa
Adela Acosta, Maryland
Steve Bartlett, Texas
William Berdine, Kentucky
Paula C. Butterfield, Pennsylvania
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W. Alan Coulter, Louisiana
Floyd Flake, New York
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Stephen Hammerman, New York
Bryan C. Hassel, North Carolina
Douglas Carl Huntt, Ohio
Michael James Rivas, Texas
Cheryl Rei Takemoto, Virginia
Katie Harper Wright, Illinois

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Elizabeth Ann Bryan, Washington, DC
Edward Sontag, Washington, DC
Assistant Secretary Robert H. Pasternack, Washington, DC
G. Reid Lyon, Bethesda, MD
Assistant Secretary Wade F. Horn, Assistant Secretary

Commission Staff:
Linda Emory, Senior Policy Advisor
C. Todd Jones, Executive Director
Troy Justesen, Deputy Executive Director.
Marisa Munoz, Confidential Assistant

II. Congressional Hearings, House of Representatives
http://edworkforce.house.gov

House Committee on Government Reform, Hearing on Reauthorization of IDEA, February 28, 2001:
Marca Bristo, Chair, National Council on Disability, Washington, DC

House Education and the Workforce Hearing, Overidentification Issues Within the Individuals with Disabilities Education Act and the Need for Reform", October 4, 2001:
The Honorable Roderick R. Paige, Secretary, U.S. Department of Education, Washington, DC
The Honorable Chaka Fattah, Representative, Second Congressional District of Pennsylvania
U.S. House of Representatives, Washington, DC
Dr. Thomas Hehir, Lecturer on Education, Graduate School of Education, Harvard University
Cambridge, MA
Dr. Matthew Ladner, Director, Children First America, Smithville, TX

House Subcommittee on Education Reform, Hearing on "Special Education Finance at the Federal, State and Local Levels," April 18, 2002
Dr. Jay G. Chambers, Senior Research Fellow, American Institutes of Research, Palo Alto, CA
Paul M. Goldfinger, Vice President, School Services of California, Inc., Sacramento, CA

Dr. John R. Lawrence, President-Elect, American Association of School Administrators, Superintendent, Troy R-III School District, Troy, MO

House Subcommittee on Education Reform Hearing on "Rethinking Special Education: How to Reform the Individuals with Disabilities Education Act," May 2, 2002

Dr. W. Douglas Tynan, Director, Disruptive Behavior Clinic, A.I. Dupont Hospital for Children, Wilmington, DE

Gregory J. Lock, Principal, Oak View Elementary School, Fairfax, VA

Leslie Margolis, Parent, Baltimore, MD, Managing Attorney, School House Discipline Project, Maryland Disability Law Center, Baltimore, MD

Dr. Patrick J. Wolf, Assistant Professor of Public Policy, Georgetown Public Policy Institute, Georgetown University, Washington, DC

Katherine Beh Neas, Co-chair, CCD Education Task Force, Assistant Vice President, Government Relations, Easter Seals, Washington, DC

House Subcommittee on Education Reform Hearing on "State and Local Level Special Education Programs that Work and Federal Barriers to Innovation," May 8, 2002

Lawrence C. Gloeckler, Deputy Commissioner, Vocational and Educational Services for Individuals with Disabilities, New York State Education Department, Albany, NY

Dr. Richard Schoonover, Director of Student Services, Bellevue Public Schools, Bellevue, Nebraska

~~Dr. Russell Skiba, Ass~~sociate Professor, Indiana University, Bloomington, IN

Dr. Sally Arthur, Director of Educational Support Services, Humble Independent School District, Humble, TX

III. Congressional Hearings—Senate

http://labor.senate.gov

Senate Committee on Health, Education, Labor and Pensions, What's Good for Kids, What Works for School, Hearing on Reauthorization of IDEA, March 21, 2002

Assistant Secretary Robert Pasternack, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Washington, DC

Lilliam Rangel-Diaz, Parent and Board Member, National Council on Disability, Miami, FL

Bob Vaadeland, Superintendent, Minnewaska Area Schools, Glenwood, MN

Kim Ratcliffe, Director of Special Education, Columbia Public Schools, Columbia, MO

Robert Runkel, State Director of Special Education, Montana, Helena, MT

Committee on Health, Education, Labor, and Pensions Hearing on IDEA: Behavioral Supports in Schools, April 25, 2002,

Kathleen B. Boundy, J.D., .Co-Director, Center for Law and Education, Boston, MA

Professor George Sugai, Ph.D., Co-Director, Center on Positive Behavioral Interventions and Supports, University of Oregon, Eugene OR

Dr. Ronnie M. Jackson, Superintendent, Dale County School District, Dale County, AL

Testimony Submitted For The Record: American Academy of child and Adolescent Psychiatry

Senate Committee on Health, Education, Labor and Pensions, Hearing on Reauthorization of the Individuals with Disabilities Education Act, June 6, 2002

Arlene Mayerson, Directing Attorney, Disability Rights Education and Defense Fund, Inc., Berkeley, California

David W. Gordon, Superintendent, Elk Grove Unified School District, Elk Grove, CA

Lawrence C. Gloeckler, Deputy Commissioner, Vocational and Educational Services for Individuals with Disabilities, New York State Education Department, Albany, NY

Dr. Stan F. Shaw, Professor and Coordinator of Special Education, University of Connecticut, Storrs, CT

Marisa Brown, Parent, Vienna, VA

Written Comments: American Academy of Child and Adolescent Psychiatry (www.aacap.org)

IV. U. S. Commission on Civil Rights, Briefing on Reauthorization of the Individuals with Disabilities Act, Washington, DC, April 12, 2002

http://www.usccr.gov

Chairperson Mary Frances Berry

Commissioner Chris Edley, Jr.

Dr. Martin Gould, Senior Research Specialist, National Council on Disability, Washington, DC

Dr. Donald Oswald, Associate Chair for Child Psychology, Virginia Commonwealth University, Richmond, VA

Kathleen Boundy, Co-director, Center for Law and Education, Washington, DC and Boston, MA

Barbara Cheadle, Program Coordinator, National Federation for the Blind; President, National Organizations of Parents of the Blind, Baltimore, MD

Jeritza Montgomery, Teacher and IEP Facilitator, Thomas Stone High School, Charles County, MD

V. Commenters to NCD Request for Public Comment and Request for Comment from Youth Advisory Committee

http://www.ncd.gov

NCD wants to acknowledge and thank the following individuals who submitted comments during the *Federal Register* Request for Comment period. While not all of the comments are included in this document, they are on file for review.

Richard H. Cate, Chief Operating Officer, The State Education Department, The University of the State of New York, Albany, NY

David W. Peterson, Superintendent, Northern Suburban Special Education District, Highland Park, IL, April 5, 2002,

Barbara J. Ebenstein, Parent and Attorney at Law, Scarsdale, New York, May 31, 2002

Fred Arthur Tenzer, Brooklyn, New York

Christopher J. Dyer, Gwinnett County, Georgia
Donna Carter, Parent
Dr. Karen Quick, School Psychologist
Barbara Raimondo, J.D., American Society for Deaf Children, Conference of Educational Administrators of Schools and Programs for the Deaf, Consumer Action Network, National Deaf Education Project, Washington, Grove, MD
Teresa Peterson, Parent, Brazoria, TX
Dr. Barbara LeRoy, Director, Developmental Disabilities Institute, Wayne State University, Detroit, MI
Vernon M. Arrell, Commissioner, Texas Rehabilitation Commission, Austin, TX
Dr. Rozell Moulton, Research Associate, Developmental Disabilities Institute, Wayne State University, Detroit, MI
Sarah Webster, ADSW, LMSW-AP, Director of Child Protective Service, Texas Department of Protection and Regulatory Services, Austin, TX
Laura Gardner, Parent, NY State
Victoria Sheehan, Parent, Mineral Point, PA
Kay Robles, Parent, Modesto, CA
Carole L. Grissett, Parent, Louisville, KY
Carole H. Long, Parent, Louisville, KY
Wendy Snider, Parent, Beaufort, SC
Sandra Dunleavy, Parent
Elizabeth Brant, Teacher, North Carolina
Carla J. Sullivan, Parent - IL
Liz Miller, Parent
Mary Dickter, Parent
Ruth, Student, Tucson, AZ
Jennifer, Student, Ohio
Allison, Student
Ken Lassessen, Parent
Erin, Student
Alex, Student, Richmond, KY
Rosemary Palmer, Parent
Jo Rupert Behm, M.S., R.N., Parent, CA
Mary, Student
Adam, Former Student, IL
Jessica, Former Student- Utah
Isaac, Former student
Whiteney, Student-New Jersey

Other Resources:

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Appendix

Mission of the National Council on Disability

Overview and Purpose

The National Council on Disability (NCD) is an independent federal agency with 15 members appointed by the president of the United States and confirmed by the U.S. Senate. The overall purpose of NCD is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or significance of the disability, and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

Specific Duties

The current statutory mandate of NCD includes the following:

- Reviewing and evaluating, on a continuing basis, policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, as amended, or under the Developmental Disabilities Assistance and Bill of Rights Act, as well as all statutes and regulations pertaining to federal programs that assist such individuals with disabilities, in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities.
- Reviewing and evaluating, on a continuing basis, new and emerging disability policy issues affecting individuals with disabilities at the federal, state, and local levels and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that act as disincentives for individuals to seek and retain employment.
- Making recommendations to the president, Congress, the secretary of education, the director of the National Institute on Disability and Rehabilitation Research, and other officials of federal agencies about ways to better promote equal opportunity, economic self-sufficiency, independent living, and inclusion and integration into all aspects of society for Americans with disabilities.
- Providing Congress, on a continuing basis, with advice, recommendations, legislative proposals, and any additional information that NCD or Congress deems appropriate.
- Gathering information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
- Advising the president, Congress, the commissioner of the Rehabilitation Services Administration, the assistant secretary for Special Education and Rehabilitative Services within the Department of Education, and the director of the National Institute on Disability and Rehabilitation Research on the development of the programs to be carried out under the Rehabilitation Act of 1973, as amended.

- Providing advice to the commissioner of the Rehabilitation Services Administration with respect to the policies and conduct of the administration.
- Making recommendations to the director of the National Institute on Disability and Rehabilitation Research on ways to improve research, service, administration, and the collection, dissemination, and implementation of research findings affecting persons with disabilities.
- Providing advice regarding priorities for the activities of the Interagency Disability Coordinating Council and reviewing the recommendations of this council for legislative and administrative changes to ensure that such recommendations are consistent with NCD's purpose of promoting the full integration, independence, and productivity of individuals with disabilities.
- Preparing and submitting to the president and Congress an annual report titled *National Disability Policy: A Progress Report.*

International

In 1995, NCD was designated by the Department of State to be the U.S. government's official contact point for disability issues. Specifically, NCD interacts with the special rapporteur of the United Nations Commission for Social Development on disability matters.

Consumers Served and Current Activities

Although many government agencies deal with issues and programs affecting people with disabilities, NCD is the only federal agency charged with addressing, analyzing, and making recommendations on issues of public policy that affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, veteran status, or other individual circumstance. NCD recognizes its unique opportunity to facilitate independent living, community integration, and employment opportunities for people with disabilities by ensuring an informed and coordinated approach to addressing the concerns of people with disabilities and eliminating barriers to their active participation in community and family life.

NCD plays a major role in developing disability policy in America. In fact, NCD originally proposed what eventually became the Americans with Disabilities Act. NCD's present list of key issues includes improving personal assistance services, promoting health care reform, including students with disabilities in high-quality programs in typical neighborhood schools, promoting equal employment and community housing opportunities, monitoring the implementation of the ADA, improving assistive technology, and ensuring that those persons with disabilities who are members of diverse cultures fully participate in society.

Statutory History

NCD was initially established in 1978 as an advisory board within the Department of Education (P.L. 95-602). The Rehabilitation Act Amendments of 1984 (P.L. 98-221) transformed NCD into an independent agency.

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